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NOTES

TO

THE SECOND AND THIRD BOOKS

OF THE

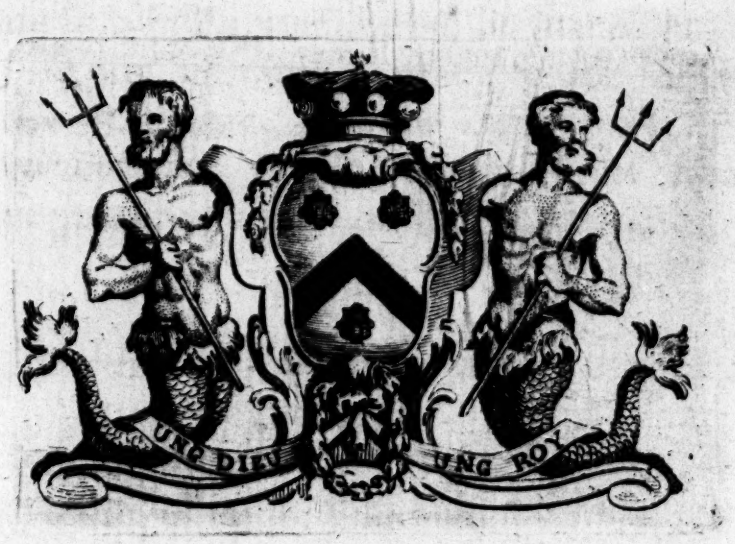
HISTORY

OF THE

Life of King Henry the Second.

With an APPENDIX to each.

By GEORGE Lord LYTTELTON.



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NOTES

TO THE

SECOND BOOK

OF THE

Life of King Henry the Second.

PAGE 10. *He therefore ſummoned a parliament, wherein almoſt all his nobles were preſent, and having properly laid before them the wants of the crown, the loſſes it had ſuffered, the illegality of the grants, and the urgent neceſſity of a ſpeedy reſumption, obtained their concurrence to it, and proceeded to put it in immediate execution.*

It does not appear that this ſecret article of the treaty of Wincheſter had received the ſanction of parliament, as the three others had done, during the life of King Stephen. That prince (one may preſume) delayed to aſk it, for fear of offending the nobles of his own faction; and Henry durſt not preſs him (as he did in other inſtances) to execute this part of the agreement between them, leſt he ſhould take advantage of it to excite new commotions in England, before he himſelf had obtained a peace from Louis. It was therefore neceſſary to aſk the concurrence of parliament to this reſumption, after he came to the crown: and he ſeems to have acted wiſely in not propoſing it to them, till the expulſion of the foreign troops, and demolition of the caſtles, had been fully executed.

P. 11. *The cauſe aſſigned for theſe reſumptions was not a defect in the title of the grantor*, &c.

Some hiſtorians have indeed given that reaſon for them; but the fact itſelf proves the contrary. For, in that caſe, only the grants which Stephen had made would have been reſumed by his ſucceſſor, not thoſe of Matilda. Beſides, we are aſſured, that Stephen himſelf had conſented to theſe reſumptions at the treaty of Wincheſter, which he would never

Neubrigen. p. 282. l. ii. Gerv. Chron. p. 1377.

have done upon the foundation of the grants being illegal, *becauſe made by him.* The true reaſon was the poverty of the crown, or (to uſe the words of William of Newbury) *quod regii redditus breves eſſent, qui avito tempore uberes fuerant*; and the danger of leaving in the hands of the barons ſo many of the royal fortreſſes, which Gervaſe calls, with great propriety, *Rebellionum materiam, et ſuſpicionum cauſas.*

P. 18. *He therefore joined two laymen in the commiſſion, the earl of Leiceſter and Richard de Lucy.*

It ſeems that the earl of Leiceſter had the precedence of Richard de Lucy, though both are ſtyled equally *Juſticiarii Angliæ*, in the records of thoſe times. Dugdale, in his Baronage, ſuppoſes that the latter was not made Juſticiary till the eighth year of Henry II, and quotes for it Roger Hoveden, who ſays no ſuch thing, but only mentions him as Juſticiary in ſome of the tranſactions which paſt in that year. Indeed this work of that learned author is much more inaccurate than moſt of his other writings, and ought to be read with caution.

P. 22. *And juſt before the death of Stephen the archdeaconry of Canterbury was likewiſe given to him by the ſame prelate.*

Fitſtephen ſays that the archdeaconry of Canterbury was the firſt dignity in the church of England, next to biſhops and abbots, and was worth to Becket a hundred pounds *per ann.* equivalent to a benefice of fifteen hundred at preſent. *Poſt epiſcopos et abbates, in eccleſia Anglorum hic primus et dignior eſt perſonatus, et ei valebat centum libras argenti.*

P. 24. *The Chancellour of England, at this time, had no diſtinct court of Judicature in which he preſided; but he acted together with the Juſticiary and other great officers, in matters of the revenue, at the Exchequer, and ſometimes in the counties, upon circuits.*

Breton who flouriſhed in the reign of Edward the Firſt, writing of all other courts, from the higheſt tribunal to the court-baron, makes no mention of the chancery (ſee Dugdale's Origin. Juridiciales). And Mr. Madox ſays, that, till the reign of King John, the chancery was uſually holden at the Exchequer, the great ſeal being commonly kept and many or moſt of the chancery writs diſpatched and ſealed there. But the ſame author has ſhewn, that, in the reign of Henry the Second, pleas were held in the county of Kent, before the king's Chancellour, and the earl of Leiceſter, chief-juſtice, and alſo before the Chancellour and Henry de Eſſex, high-conſtable (ſee Madox's Hiſtory of the Exchequer, c. ii. p. 42, 43.)

We

We have a deſcription of the office of Chancellour in the following words of a contemporary writer of Becket's life: "Cancellarii dignitas "eſt, ut ſecundus à rege in regno habeatur; ut alterâ parte ſigilli regii, "quod et ad ejus pertinet cuſtodiam, propria ſignet mandata: ut capella "regia in illius ſit diſpoſitione et cura: ut vacantes archiepiſcopatus, epiſ- "copatus, abbatias et baronias cadentes in manum regis ipſe ſuſcipiat et "conſervet: ut omnibus regiis adſit conſiliis; etiam non vocatus accedat: "ut omnia ſigilliferi clerici regii ſua manu ſignentur" (ſee Dugdale's Origin. jũridicial. & Selden. upon the office of Chancellour). But the dignity of this office is exaggerated by this author, probably from a deſire of doing honour to Becket, For the Dialogus de Scaccario expreſly ſays, that the Great Juſticiary had the precedence in the court of Exchequer before the Chancellour, and it appears from many other proofs that his power and dignity were greater at this time. Nor is it true that the cuſtody of vacant prelacies or of baronies eſcheated to the crown belonged officially to the Chancellour. For it appears evidently by the rolls, that the king committed it to whom he pleaſed (ſee Hiſt. of the Exchequer, c. 10.) Some of theſe had been granted to Becket, but not in right of his office. Upon the whole, this paſſage deſerves little regard.

There are ſome verſes of John of Saliſbury, in his preface to his Policraticon, which have made ſome perſons think, that, as early as in the reign of King Henry the Second, the chancellour had a power to temper and moderate the common law by equity. The verſes are theſe: See Duck de Authoritate Jur. Civ. c. viii. p. 305.

"Quærendus regni tibi cancellarius Angli,
"Primus ſollicita mente petendus erit.
"Hic eſt qui regni leges cancellat iniquas,
"Et mandata pii principis æqua facit.
"Si quid obeſt populo, vel moribus eſt inimicum,
"Quicquid id eſt, per eum definit eſſe nocens."

But, from other proofs, it appears, that this was not a deſcription of the chancellour's office, as it was in thoſe days; but a perſonal compliment paid to Becket, with ſuch exaggerations as poetry may admit of, and a quibble upon the words *cancellat* and *cancellarius*.

As a ſpecimen of the inaccuracy of Monſieur Rapin Thoyras, in his hiſtory of this reign, and of the little knowledge he had of our ancient conſtitution, I ſhall tranſcribe a paſſage out of him, as tranſlated by Mr. Tindal, who has faithfully rendered his ſenſe: "After the king (ſays he) "had taken all the precautions he thought proper, for the reſtoring tran- "quillity in the kingdom, he choſe a council out of the moſt eminent

" perſons, as well among the clergy as the nobility. Theobald, arch-
" biſhop, Thomas Becket, archdeacon of Canterbury, who was juſt
" made chancellour; Robert, earl of Leiceſter, great juſticiary of the
" realm, held the firſt rank in it. At the head of the *cabinet-council*
" was Matilda his mother, whom long experience, and her own miſ-
" fortunes, had rendered wiſe at her own coſt. *Theſe two councils being*
" *eſtabliſhed, &c.*" There was not, in thoſe days, or for many centuries after, any ſuch thing in this country as a *cabinet-council*; and that after Henry the Second came to the crown Matilda was never in England. But Rapin makes perpetual miſtakes of this nature; and, except in what relates to eccleſiaſtical matters, about which he ſeems to have taken more pains, is a moſt careleſs and ſuperficial writer of the hiſtory of this country, till he comes down to the times of Henry the Seventh. His ſenſible and learned tranſlator, Mr. Tindal, has corrected many of his errors; but was forced to leave many more, which any reader will ſee, who will compare Rapin's work with our ancient hiſtorians, or with the cleareſt accounts of our ancient conſtitution.

P. 34. *He likewiſe inſiſted, and not without an ancient claim, that Malcolm ſhould acknowledge himſelf his vaſſal for Lothian.*

Some of the modern Scotch hiſtorians having denied the fact here aſſerted, I think it proper to give my authorities, with ſome ſhort obſervations. The words of Diceto (Imag. Hiſtor.) under the year 1157, are theſe: " Melchomus rex Scotorum reddidit ei (Henrico, ſcilicet)
" civitatem Carleul, caſtrum Baenburg, Novum caſtrum ſuper Tinam, *et*
" *comitatum Lodonenſem.*" The Norman chronicle of Robertus de Monte has alſo theſe words: " Hoc anno Malcolmus rex Scotorum red-
" didit Henrico regi quicquid habebat de dominio ſuo, id eſt, civitatem
" Carlcuith, caſtrum Baemburch, Novum caſtrum ſuper Tinam, *et co-*
" *mitatum Lodonenſem.*" As theſe are both contemporary teſtimonies, they are of great weight; and I may add to them the annals of Waverley and Matthew Paris. Yet, I preſume, they are all inaccurate in giving the reader to underſtand, that the county of Lothian was reſtored to King Henry in the ſame manner as the other places there mentioned. For only the *ſovereignty* of it was yielded to him; the country being ſtill poſſeſſed by Malcolm, but held in fief of the Engliſh crown, as it had been by Keneth the Third and other kings of Scotland. And for this reaſon it was, that, in paying his homage, he did it with a ſaving *to his royal dignity*; that it might appear, it was only for this part

of

of Scotland, not for the whole kingdom. Had he done homage only for the earldom of Huntingdon, there would have been no need of this ſaving; ſince his being a vaſſal for a county of England could not juſtly be ſuppoſed to impeach his royal dignity, as king of Scotland. And this alſo accounts for the ſilence of William of Newbury, who mentions only the three Northern counties, as now reſtored to Henry; becauſe Lothian was not upon the ſame foot with them, but ſtill remained in the poſſeſſion of the Scotch, though under condition of homage and fealty to England. That, in ſome way or other, it was ſubject to Henry, a proof may be drawn from the words of Henry himſelf, in the Letters patent he gave to Dermot king of Leinſter, the preamble of which is as follows: "Henricus, rex Angliæ, dux Normanniæ et Aquitaniæ, et "comes Andegaviæ, univerſis *fidelibus ſuis*, Anglis, Normannis, Gwalen- "ſibus, et *Scotis*, cunctiſque nationibus ſuæ ditioni ſubditis, ſalutem." The three Northern counties having before been recovered, the only Scotch ſubjects, or liegemen, Henry could have at this time, were the Scotch inhabiting Lothian, unleſs we ſhould ſuppoſe that ſome of that nation had fiefs in England, of which I find no evidence in records or hiſtory. It does not well appear, why Diceto, the annals of Waverley, and the Norman chronicle, in the paſſages cited above, mention only Carliſle, the caſtle of Bamburg, and Newcaſtle upon Tine, as yielded now to Henry by the king of Scotland; whereas it is certain, from the teſtimony of William of Newbury, and other good evidence, that all the three Northern counties were delivered up to him. Theſe were indeed the chief places of Cumberland and Northumberland; but the counties ſhould have been mentioned, as they are very diſtinctly, by William of Newbury, a contemporary hiſtorian.

V. Girald. Cambren. Hibernia expugnat. lib. i. cap. 1.

V. Neubrig. l. ii. c. 4.

With regard to the claim which the kings of England had of homage for Lothian, theſe are the words of the Wallingford chronicle, written by an Abbot, who lived under Henry the Second: "Suggeſſit rex Kineth "regi Eadgaro Louthion ad ſuum jus debere pertinere, et hæreditariè à "regibus Scotorum poſſideri. Rex nolens aliquid abruptè facere ne poſt "factum pœniteret, regis Kineth cauſam curiæ ſuæ intimavit. Proceres "vero, qui à progenitoribus erant eruditi, niſi ſub nomine homagii regi "Angliæ à rege Scotorum impenſi, et præcipuè quia ad tuendum terram "illam difficilis eſt acceſſus et parum proficua ejus dominatio, aſſenſit au- "tem aſſertioni huic Kineth, *et ſub nomine homagii eam petiit et accepit*, "*fecitque regi Eadgaro homagium* ſub cautione multa promittens, quod "populo partis illius antiquas conſuetudines non negaret, et ſub nomine "et linguâ Anglicanâ permanerent. *Quod uſque hodie firmum manet.*

V. Chronic. Johan. Walingford.

"Sicque

" Sicque determinata eſt vetus querela de Louthion, et adhuc nova ſæpe " intentatur."

Though the paſſage is evidently mutilated in two places, enough of it is clear, to prove a very ancient dependence of Lothian on the Engliſh crown. Which is alſo confirmed by Matthew of Weſtminſter, with this remarkable circumſtance, " Dedit inſuper ei rex (Eadgarus) man- " ſiones in itinere plurimas, ut ipſe et ejus ſucceſſores ad feſtum venientes, " ac denuo revertentes, hoſpitari valuiſſent, quæ uſque in tempora regis " Henrici ſecundi, in poteſtate regum Scotiæ remanſerunt." Florence of Worceſter alſo ſo far confirms it, that he reckons Keneth among the kings and princes who ſwore fealty to Edgar. The ſtory told by this hiſtorian of Keneth and ſeven other princes of the Cumbrian Britons or Welch having rowed the barge of Edgar on the river Dee, I much doubt of: but his evidence as to the *vaſſalage* of Keneth is not liable to the ſame objections.

P. 35. *and the Engliſh monarch conferred on him the earldom of Huntington, againſt the claim of the earl of Northampton, to whoſe father it had been given by Stephen on the death of Henry prince of Scotland.*

No mention is made, in any hiſtory or record, of the county of Cambridge being annext to this grant of the earldom of Huntington. Yet it appears by records, that David, the grandfather of Malcolm, received the third penny of the county or earldom of Cambridge, when he was earl of Huntington. Poſſibly the two counties were then united. We alſo find that the young King Henry added it to the grant of Huntingtonſhire, which he made to David the brother of William King of Scotland, when he confederated with that prince againſt his father, in the year 1173. After this we have no more of this earldom, till Sir John of Haynault, brother of William earl of Holland and Haynault, was made earl of Cambridge by King Edward the Third.

See Camden's Britannia, CAMBRIDGESHIRE.

P. 36. *but, from ſome remains of it, which are ſtill to be ſeen, and for ſeveral other reaſons, I ſhould judge that it (viz. Offa's Ditch) was rather intended for a boundary, to ſeparate the territories of the Engliſh from thoſe of the Welch, than to protect the former, as a fortification.*

A law of Harold Harefoot is mentioned by Mr. Selden, which enacts, that if any Welchman, coming into England without leave, was taken on this ſide of Offa's Ditch, his right hand ſhould be cut off by the king's officer. This ſtatute ſhews, that, ſo late as in the reign of that Daniſh monarch, this ditch was conſidered as a diſcriminating limit between the two nations; but afterwards, when all the borders of Wales beyond

beyond that ditch were filled with Engliſh colonies, and the Welch themſelves had ſubmitted to the ſovereignty of the Engliſh under feudal bonds of allegiance, it was neceſſarily abrogated and fell into diſuſe.

P. 38. *but the two younger were ſubordinate to the eldeſt, who had North-Wales, and held his royal ſeat at Aberffraw in the iſle of Angleſea, which was the Mona of the Britons.*

The very intelligent and ſenſible author of the general Preface to Wotton's collection of the Welch Laws is of opinion, that the ſovereignty of the kings of North-Wales over thoſe of South-Wales and Powis-land did not exiſt in theſe times, but was a claim ſet up afterwards, about the days of our Henry the Second. Though I perfectly agree with him in moſt other points, I do not think his arguments here are ſufficient to overturn the authority of ſo many writers as are unanimous in the other opinion, which I the rather incline to, becauſe it ſeems that the Welch would hardly have continued without a head, or under princes independent the one of the other, when they had a conſtant war to maintain with the Saxons. It is therefore very probable, that they gave a pre-eminence to the king of North-Wales, whoſe country was the ſtrongeſt; and that the two others were ſubordinate to, and dependent on him; as, in each royal family of the three kingdoms, the younger ſons were on the eldeſt.

Vid. Præfat. Gul. Clarke ad Leg. Wal.

P. 38. *and made a reformation of their political, civil, and municipal laws, which were digeſted by him into three books.*

In the four prefaces to theſe laws, as publiſhed in England, I find a great difference with regard to the manner in which Howel Dha made this reformation. The firſt ſays, he convened out of every *commote* (which was a leſſer diviſion of *cantreds*, or *hundreds)* ſix men, among whom were perſons of dignity in the church, biſhops, archbiſhops, abbots, and doctors; that out of the whole number of theſe, when aſſembled together, twelve of the wiſeſt laymen were choſen, and one clergyman of the greateſt reputation among them for knowledge in the laws, to whom the king gave authority to aboliſh ſuch laws as they ſhould judge to be bad, and ſubſtitute others in their place; which work, being finiſhed, received a ſanction from all the aſſembly. Blegored (who at that time was archdeacon of Landaff) is afterwards mentioned in that preface, as having had a principal hand in this reformation.

Vid. Præfationes IV. ad Leg. Wall.

The ſecond preface ſays, that, out of the wiſeſt men in his territories *(in principatu ſuo)* Howel aſſembled ſix from every *cantred* (not *commote)* in all Wales, of which four were laymen, and two were eccleſiaſticks; that

theſe examined the laws then in uſe, alleviated what ſeemed too ſevere, and aggravated what was too light; left ſome unaltered; amended, or abrogated others; and enacted ſome new ones. With this account the fourth preface perfectly agrees.

But the third agrees with the firſt, that the ſix men were choſen from every *commote* in Wales; and that they delegated their authority to twelve laymen, and one clergyman, namely, Blegored, of whom no mention is made in the other two.

It is plain, from theſe differences, that none of the four prefaces were affixed to the laws by Howel Dha, but were added in later times. The firſt of them is ſuppoſed to be the moſt ancient. Some authors report that Howel went in perſon to Rome, and obtained the pope's confirmation of the laws he had compiled. But none of the prefaces mention this circumſtance; and (as an author who underſtands the Welch language affirms) it is not to be found in the original hiſtory of Caradoc of Lancarvan, though it is in the tranſtation of Humphrey Llwyd, publiſhed by Dr. Powel: that tranſlator having added, not very judiciouſly, ſome things of his own to the text of his author. The fact in queſtion is evidently falſe: for it is impoſſible that the pope could have given his ſanction to ſome of theſe laws; particularly thoſe concerning divorces, in which a much greater liberty is allowed than the ſee of Rome has ever admitted; a ſtinking breath in the huſband being accounted there a good reaſon for a divorce, beſides other cauſes, which it will not be neceſſary or decent to enumerate here.

Vid. Præfat. Gul. Clarke ad Leg. Wall.

Vid. Præfat. prædict.

P. 47. *Twelve knights, of conſiderable note and diſtinction were retained in his ſervice* &c.

Their names were William de Londres, Richard de Greenfield, or Granville, Paine de Tuberville, Robert de St. Quintin, Richard de Syward, Gilbert de Humfreville, Roger de Berkrolles, Reginald de Sully, Peter le Score, John le Fleming, Oliver de St. John, William le Eſterling, called for ſhortneſs Stradling.

P. 72. *He therefore reſolved to attempt it, and having drawn out of the whole militia of England a very great army, he led it through Cheſhire into Flintſhire*, &c.

Vid. Chron. Norm. ſub ann. 1156.

According to the Norman chronicle of Robertus de Monte, there was ſomething very particular in the manner of raiſing this army. His words are theſe: "Rex Henricus præparavit maximam expeditionem, *ita ut duo*

"*milites*

" *milites de tota Anglia tertium pararent*, ad opprimendum Gualenſes." Mr. Madox has ſhewn, in his Hiſtory of the Exchequer, that a ſcutage was raiſed for this war on the clergy that held of the crown by knight-ſervice. We muſt therefore underſtand the words above-cited, as only extending to lay-fees. But I rather doubt the truth of it, as it is not confirmed by our records, or by any Engliſh writer who lived in thoſe times. I find indeed the ſame words in the annals of Waverley; but as it is probable this part of thoſe annals was not compiled till long afterwards (for the words of the Norman chronicle are often tranſcribed in them) I think it does not add much to the credit of the original author.

P. 72. *But this appearance was only an artifice to draw the Engliſh into a narrow and difficult paſs, between two ranges of hills*, &c.

Camden, in his Britannia, ſays, that this paſs is near the river Alen; and it appears to have been formed by ſome hills, which, in the map he has given of Flintſhire, are placed to the north of that river between Kilken and Flint. Dr. Powel, in his Notes to the Welch chronicle, mentions this action, as it is deſcribed by William of Newbury; and ſays, that the ſtreights, which the Engliſh army were then attempting to paſs, were at Counſylth, near Flint. Probably they mean the ſame place. There was another road on the ſands along the ſea-ſhore, which Henry, it may be preſumed, avoided at firſt, from an apprehenſion of ſome danger in paſſing thoſe ſands, though he afterwards took it, as ſafer than the former from the ambuſcades of the Welch. Giraldus Cambrenſis, in his account of this country, has mentioned both. His words are theſe: " In cellula de Baſinwerke pernoctavimus. In craſtino vero " longum vivûmque per loca ſabulum, non abſque formidine, permeantes, " ſylveſtria de Coleſhull, id eſt, Carbonis colle, à dextrâ reliquimus, ubi " Anglorum rex, Henricus ſecundus, noſtris diebus, cum primo Walliam " hoſtiliter intravit, juvenili impetu et inconſulto calore arctum illud " ſylveſtre penetrare præſumens, cum detrimento ſuorum et damno non " modico, ambiguam bellorum aleam expertus eſt." The place which Camden and Giraldus call Coleſhull, or, in modern Engliſh, *Coleſhill*, is is called in the Welch chronicle *Coed Eulo*. But it is obſervable, that, by the account which is given in that chronicle of this engagement, it ſeems that the king was not preſent in it himſelf, but only a detachment from his camp near Cheſter. Nevertheleſs, the clear teſtimony of Giraldus Cambrenſis, William of Newbury, and Gervaſe of Canterbury, contemporary writers; and the duel and condemnation of Henry de Eſſex, in conſequence of it, leave us no room to doubt that he was there in perſon. Perhaps the error is not in the chronicle, but in Humphrey Llwyd's tranſlation, which,

See Camden's Britannia, FLINTSHIRE.

not underſtanding the original language, I am forced to make uſe of, as publiſhed by Dr. Powel, and ſince, with ſome alterations, by the Rev. Mr. Wynne.

P. 79. *and this ſufficiently accounts for none of thoſe coins having ever been found.*

Mr. Folkes, in his book on Engliſh coins, mentions ſome pennies coined at York with the name Euſtacius. But as Euſtace was the king's eldeſt ſon, and as his father deſired to have him crowned in his own life-time, I do not reckon theſe among the coins abovementioned; though theſe alſo would undoubtedly have been melted down and deſtroyed by King Henry the Second, if they had not been loſt, or ſecreted. Mr. Folkes alſo mentions another coin he had ſeen in the earl of Pembroke's collection, that has the name of King Stephen only on the reverſe, and on the foreſide a profile head with a croſier and ✠ HEN . . . VS EP. C. which he ſuppoſes to be the head of Henry biſhop of Wincheſter, brother to the king (ſee Folkes's Table of Engliſh Coins, p. 5.) But probably this was coined at one of the Royal Mints.

P. 84. *Some accounts that are given of the luxury and expence of his table are incredible,* &c.

Fitſtephen tells us, that one day there was ſerved up to Becket, during this embaſſy, a ſingle diſh of eels, which coſt five pounds ſterling *(centum ſolidis ſterlingorum emptum)*. He adds, that it was talked of all over the country; and well it might; for, twenty ſhillings in thoſe days containing in them as much ſilver as ſixty in theſe, or little leſs, if we eſtimate ſilver at only five times above the preſent value, as much was paid for this ſingle diſh of eels, as if we now bought one for ſeventy five pounds ſterlings, or thereabouts. But ſuch a price exceeds all belief. And it muſt be obſerved, that this author is very apt to exaggerate in his accounts of thoſe times; but more eſpecially in what he writes to the honour of Becket.

P. 93. *Nor does it ſeem that the policy of thoſe times ever regarded his dominions upon the French continent as prejudicial to England. Thoſe which were maritime provinces (and moſt of them were ſo) appeared very commodious to the Engliſh, on account of their trade; eſpecially Normandy and Bretagne; which, lying oppoſite to their coaſts, ſecured to that nation the ſovereignty of the whole Britiſh ocean.*

There is a fine paſſage in the ſpeech, which Lord Bacon, in his Hiſtory of King Henry the Seventh, puts into the mouth of Thomas

Morton, archbiſhop of Canterbury and chancellour of England, as delivered to the parliament called by that prince in the third year of his reign, on the war which the king of France was then preparing to make againſt the duke of Bretagne. The words are theſe: "If the French "king ſhall make a province of Bretagne, and join it to the crown of "France, then it is worthy the conſideration how this may import Eng-"land, as well in the increaſement of the greatneſs of France by the "addition of ſuch a country, *which ſtretches it's boughs unto our ſeas*, as "in depriving this nation, and leaving it ſo naked of ſo firm and aſſured "confederates, as the Britons have ever been. For then it will come to "paſs, that whereas, not long ſince, *this realm was mighty upon the con-"tinent, firſt in territory, and after in alliance, in reſpect of Burgundy "and Bretagne, which were confederates indeed, but dependent confederates*; "now the one being already caſt, partly into the greatneſs of France and "partly into that of Auſtria, the other is like wholly to be caſt into the "greatneſs of France; *and this iſland ſhall remain confined in effect, "within the ſalt-waters, and girt about with the coaſt countries of two "mighty monarchs.*"

On this I would obſerve, that a more dreadful evil than Lord Bacon makes Chancellour Morton expreſs his apprehenſions of, in the foregoing paſſage, would have come upon England, if the ambitious deſigns of France had not been checked by the two *grand alliances* formed in the laſt century. For, without the reſiſtance they made, not only Bretagne, but *all* the territories of the houſe of Burgundy, *which ſtretch their boughs unto our ſeas*, would have been added to her empire; and *we ſhould have been girt about with the coaſt-countries of* ONE *mighty monarch, inſtead of two.* The preſent ſtate of the Dutch and the Auſtrian Netherlands is not ſuch as will abſolutely remove that fear from any thinking man: but there will be much more reaſon to dread it, if we either become indifferent to the ſtate of the continent, or, from the load of our debt, ſhall be unable to aſſiſt our confederates there againſt the invaſions of that power, which hitherto nothing has been able to reſtrain, but the wealth and valour of this nation exerted in defence of the liberty of Europe, wherein it's own is compriſed.

P. 98. *Inſtead therefore of haſtening to lay ſiege to Toulouſe, while Louis remained in that city, he declared his reſolution, that, out of reſpect to the perſon of that king, he would not beſiege it.*

For this I have the authority of William of Newbury, the Norman chronicle, Diceto, Brompton, and two contemporary writers of Becket's life, Fitzſtephen and John of Saliſbury, the latter of whom, from his very

intimate connection with that prelate, muſt have perfectly known all the circumſtances of this affair. But Gervaſe of Canterbury and Hoveden ſay, that King Henry beſieged Toulouſe, and lay before it ſome months. Father Daniel, to reconcile as well as he could theſe contradictory accounts, has ſuppoſed, that, after the town was inveſted by Henry, and ready to ſurrender, Louis forced one of the enemy's quarters, and made his way into it; upon which Henry raiſed the ſiege. But for this manner of bringing the king of France to the relief of the town he has not a word of contemporary authority. The account given of it by William of Newbury is much the moſt probable, and conſiſtent with itſelf. "Idem vero comes, tanti exercitûs impetum pertimeſcens, regis Fran-"corum, qui uxoris ſuæ germanus et filiorum avunculus erat, auxilium "imploravit. Qui Zelando pro nepotibus *feſtinus adveniens* cum ali-"quantâ militiâ Toloſam intravit. Quod cum innotuiſſet regi Anglorum, "perſonæ regis ibidem conſiſtentis deferens *civitatem oppugnare diſtulit*, "et ad pervadendam provinciam expugnandaſque munitiones convertit "exercitum."

Pere Dan. Hiſtoire de France, l. vii. ſub ann. 1158.

P. 101, 102. *but in that month they concluded a treaty of peace, the terms of which were very advantageous and honourable to Henry:* &c.

This treaty is not in Rymer, nor any printed book. But there is a very old copy of it among the Harleian Manuſcripts in the Britiſh Muſeum, which, I believe, is the only one extant. It is joined to ſome ſelect epiſtles of Becket, which ſeem, by the hand, to have been collected ſoon after the death of that prelate. This I preſume was added to that collection, becauſe Becket, whoſe name is among the witneſſes to it, had a principal ſhare in negotiating it on the part of his maſter. Not only it appears, that no modern hiſtorian has had any knowledge of it; but there is reaſon to think, that ſome of thoſe who lived in that age did not know the contents of it; eſpecially of the firſt part concerning the Vexin, which abſolutely juſtifies King Henry the Second from any imputation of fraud in the method of acquiring that province. A tranſcript of it may be ſeen in the Appendix to this book.

P. 103. *It is obſervable, that the firſt mention we meet with in hiſtory of this impoſition on knights fees, which became afterwards very frequent, is upon this occaſion.*

The words of the Norman chronicle about it are theſe: "Rex Henricus "iturus in expeditionem prædictam, *et conſiderans longitudinem et difficul-*

"*tatem*

" *tatem viæ, nolens vexare agrarios milites, nec burgenſes, nec ruſticos,*
" *ſumptis* LX *ſolidis Andevagenſium in Normannia de feudo uniuſcujuſque*
" *loricæ, et de reliquis omnibus, tam in Normannia quam in Anglia, ſive*
" *etiam aliis terris ſuis, ſecundum hoc quod ei viſum fuit, capitales barones*
" *ſuos cum paucis ſecum duxit, ſolidarios vero milites innumeros.*" (V. Chron. Norman. p. 995.)

This paſſage expreſſes with great clearneſs and preciſion both the motive and manner of introducing this commutation for perſonal ſervice in foreign wars.

Gervaſe of Canterbury alſo mentions this ſcutage in the following words: " Hoc anno (1159) rex ſcotagium, ſive ſcutagium, de Anglia ac-
" cepit, cujus ſumma fuit centum millia et quater-viginti millia librarum
" argenti. De aliis vero terris ſibi ſubjectis *inauditam* ſimiliter cenſus
" fecit exactionem." Nevertheleſs Mr. Madox has ſhewn, in his Hiſtory of the Exchequer, that a levy of ſcutage had been made in this kingdom, before the war of Toulouſe, viz. in the ſecond year of this king; but it was only aſſeſt upon the biſhops and abbots who held *in capite* of the crown; whereas this was general.

There is a paſſage in the ancient treatiſe, called Dialogus de Scaccario, written in the reign of Henry the Second, and publiſhed by Mr. Madox, from the Black and Red books of the Exchequer, which makes a particular mention of ſcutage: " Fit interdum, ut imminente vel inſurgente
" in regnum hoſtium machinatione, decernat rex de ſingulis feodis mili-
" tum ſummam aliquam ſolvi, marcam (ſcilicet) vel libram unam, unde
" militibus ſtipendia vel donativa ſuccedant. Mavult enim princeps
" ſtipendiarios quam domeſticos bellicis opponere caſibus. Hæc itaque
" ſumma, quia nomine ſcutorum ſolvitur, ſcutagium nuncupatur." From theſe words one ſhould think, that ſcutage had been raiſed for the defence of the kingdom againſt invaſions. But, beſides that the Norman chronicle, which, down to the year 1161, was written by Robert de Monte, a contemporary author, ſhews us the contrary; the ancient form of charg, it was, *pro exercitu, de iis qui non abierunt cum rege* (ſee Hiſtory of the Exchequer); and, during this reign, I never find it taken but for ſome war beyond the Engliſh borders. And Lyttelton, in his *Tenures*, ſays, that *thoſe which hold by eſcuage* (which is a French tranſlation of the Latin word *ſcutagium*) *ought to do their ſervice out of the realm* (ſee Lyttelton's Tenures, Grand Serjeantie, ſect. 153.) He alſo ſays, that *they who hold by caſtleward, pay no eſcuage* (tenures of knight-ſervice, ſect. 111.) the reaſon of which, ſays lord Coke, was, becauſe caſtleward was a ſervice *within the realm*. Therefore the words *imminente vel inſurgente in regnum*

Lib. i. c. 22. tit. Scutagium.

hoſtium

hoſtium machinatione, cited above from the Dialogus de Scaccario, muſt be conſidered as looſe and inaccurate.

Mr. Madox ſuppoſes, in the Hiſtory of the Exchequer, that, till the times of King Henry the Third, whenever any ſcutages were to be levied, the barons and tenants *in capite* did, by the king's command, ſend in certificates of their reſpective fees, either *toties quoties*, or, at leaſt, moſt uſually. For it appears by a record, that, in the eighteenth year of Henry the Second, ſome perſons were charged with the ſcutage of Ireland, under the title, *De iis qui cartas non miſerunt*. (See Hiſtory of the Exchequer, p. 440. c. 16.)

In the paſſage quoted above, from the Dialogus de ſcaccario, it is ſaid, that a mark, or a pound, was the ſcutage uſually charged upon every knight's fee. No computation can be made at what rate each knight's fee was charged to the ſcutage for the war of Toulouſe, becauſe, though we know the whole ſum produced by it, we are not aſſured from how many knight's fees it was raiſed. But, by the greatneſs of the ſum, the rate muſt have been conſiderably more than a mark, or a pound. I ſhould ſuppoſe, that the ſcutages varied according to the ſervice for which the military tenant commuted. If he was required to follow the king to a very diſtant country, the compoſition to exempt him from the obligation of performing that ſervice was higher. But where it was taken for a war on the borders of England, a lighter might ſuffice. The firſt ſcutage raiſed by King Henry the Second for the army ſerving in Wales, was at one pound a knight's fee. This was in the ſecond year of his reign, when the prelates only paid it, as appears by a paſſage in the Red book of the Exchequer. Yet Alexander de Swereford, who made the collections in that book, under Henry the Third, mentions another ſcutage for Wales, in the fifth year of Henry the Second, which amounted to two marks for every knight's fee. It muſt have been charged at the latter end of that year, when we find that ſome commotions aroſe in Wales, the king being ſtill abroad in the war of Toulouſe. And it is very ſurpriſing, that in the abovementioned book there ſhould be no notice taken of the great ſcutage for that war, but only of this for Wales. I doubt whether this was a ſcutage. Alexander de Swereford ſays himſelf, that it was entered upon the rolls, not *ſcutagium*, but *donum*; and that ſome paid it, who did not hold by military tenures. It alſo appears, that it was determined by the Chief-juſtice of the Common-pleas in the reign of Edward the Third, *that eſcuage ſhall not be granted but where the king goeth in proper perſon* (ſee Lyttelton's Tenure, p. 20. tit. Eſcuage). As therefore Henry did not go himſelf to this war, this could not be taken

L. Rub. fol. not. 47. col. 2. Madox Hiſt. of Exchequer. Eſcuage, c. 16. p. 435.

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as *eſcuage*, but muſt have been granted as an *auxilium*, or *donum*. Mr. Madox obſerves, that, in Henry the Second's time, aids were called *dona*. (V. Præfat. ad Dial. de ſcaccario.)

The words of Alexander de Swereford are very expreſs to prove, that no ſcutage had been raiſed in England, before the reign of Henry the Second. *Primum omnium ſcutagiorum, prout rumor ex rotulis ad me devenit, aſſiſum fuit anno regni regis Henrici, filii imperatricis, ſecundo.* Nevertheleſs there is an article in the printed copies of King John's *Magna Charta*, taken from Matthew Paris by Dr. Brady, and by Wilkins, in his Collection of Anglo-Saxon laws; which, if it were genuine, would contradict this aſſertion. It ſtands thus: "Scutagium de cætero "capiatur, ſicut capi tempore regis Henrici *avi noſtri* conſuevit." Now, as *avi noſtri* cannot ſignify the *father* of John, but may his *great-grandfather*; this would be a proof, that ſcutage was taken in the time of King Henry the Firſt. But this article is not found in the moſt authentic copies. And I make no doubt, that it got into Matthew Paris's copy from the charter of Henry the Third, where it ſtands very properly, becauſe Henry the Second was *grandfather* to that king.

L. Ruber, & Madox, ut ſuprà.

See the Edition of it by Blackſtone.

Mr. Madox indeed has mentioned a writ, which he found in the private Archives of Weſtminſter-college, and by which Henry the Firſt grants to the abbot and monks of Weſtminſter an exemption from ſcutage, for an eſtate they held of the earl of Cheſter: but, even admitting the writ to be genuine, it will be no proof againſt the opinion of Alexander de Swereford; becauſe *ſcutagium* (as Mr. Madox himſelf tells us) *when uſed in an extenſive ſenſe, did anciently ſignify any payment made upon knights fees.* We alſo know, that it ſignified *ſervitium ſcuti*, or knights-ſervice. And therefore the words of the writ, *Quiete de ſcutagio et omnibus ſecularibus conſuetudinibus*, may be well underſtood to mean an exemption from military ſervice, and all other ſecular cuſtoms.

If a military tenant either went in perſon with the king to a war out of England, or ſent another to ſerve for him, he paid no ſcutage. Thus, in the eighteenth year of Henry II ſeveral perſons are charged to eſcuage, under this title, *De ſcutagio militum, qui non abierunt in Hyberniam, nec milites pro ſe miſerunt.* See Madox of Eſcuage, Hiſt. of Exchеq. c. xvi. p. 438, 439. Indeed eſcuage in the ſenſe of a pecuniary payment, being *a commutation for a ſervice ariſing out of a tenure*, viz. the tenure by knight's-ſervice, when that ſervice was performed in another manner, by the military tenant's ſending a man to ſerve for him, ſuch *commutation* could not take place. There was alſo a difference between this compoſition by eſcuage, and the *fines* paid to the king by barons and knights holding

holding in chief of the crown, for not ſerving abroad, when they had been ordered to do ſo by ſummons from the king. Earl William de Vernun fined to King John, *pro licentia remanendi*, and *that the king would receive the ſcutages of his knight's-fees which he held in capite.* In the reign of King Henry the Third, ſeveral tenants by knight's-ſervice paid *fines* to the king, *that they might not take the voyage into Gaſcoigne, beſides the ſcutages which they voluntarily granted to the king for that voyage.* (See Madox, ut ſupra, c. xvi. p. 459.) Theſe inſtances ſhew, that ſcutages were not always accepted by the king, in lieu of the duty of perſonal ſervice from his military tenants. Nor indeed could they; becauſe mercenary ſoldiers, and chiefs of experience to command them, were not always to be had at the time they were wanted. And it ſeems to have been in the option of the king, whether he would accept them or not. Mr. Madox has given it as his opinion, "that *perſonal ſervice* was required "*moſt chiefly*, if not *ſolely*, of the tenants holding by knight's-ſervice *in* "*capite, ut de corona.* For, if a man held his land of the king by "knight's-ſervice, as of an honour then being in the king's hands, and "not of the crown, ſuch tenant was not indiſpenſably obliged to do *per-* "*ſonal ſervice in the king's army*, but was to pay the king eſcuage when "it was aſſeſt. At leaſt this was alledged to be the uſage in the reign "of King Edward the Second in the caſe of Gerard de Wacheſham, and "Thomas de Ingleſtorp" (ſee Madox, ut ſupra, p. 454.) I much doubt whether it was ſo in the times of King Henry the Second; as I ſee no reaſon for it in the feudal policy; the tenants of an eſcheated barony being obliged to perform the ſame ſervice to the king, that they would have performed to the baron. The ſame author ſays, "Sometimes the "barons and tenants by knight's-ſervice were amerced, for not ſending "their knights to ſerve for them in the king's army; and ſometimes they "were diſſeiſed of their land for not doing their ſervice;" of both which he gives ſeveral inſtances from the rolls (ſee Madox, ut ſupra, p. 461.) "But when barons or knights, holding *in capite*, did actual ſervice in the "king's army, for ſo many fees as they were anſwerable for; or *if they* "*ſent knights in their ſtead*, or *if they made fine for the ſame*, they were "wont to be acquitted of eſcuage:" (ſee Madox, ut ſupra, p. 462.) It muſt be obſerved, that, as ſome knight's-fees were ſmaller than others, the ſcutage upon them was alſo leſs in proportion.

P. 105. *whereas we find it declared, by the charter of King John, that ſcutages ought to be aſſeſt by the tenants in chief of the crown aſſembled in parliament.*

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Although this clauſe be left out of all the ſubſequent charters, yet it appears, by a writ of King Edward the Firſt's reign, cited by Mr. St. John, on the behalf of M. Hampden, in the caſe of ſhip-money, that ſcutage was granted by parliament: "Datum eſt nobis intelligi, quod "plures ſunt qui tenent per ſervitium militarium de nobis, qui contradi- "cunt ſolvere *ſcutagia, quæ nobis ſunt conceſſa per commune concilium regni* "*noſtri.*" And many proceſſes, iſſued for the levying of eſcuage granted in Edward the Firſt's time, were releaſed by Edward the Second; *Quia dictum ſervitium non fuit communiter factum*; that is, ſays Mr. St. John, that it was not done *per commune concilium regni.* The words of Sir Thomas Lyttelton, concerning this matter, require ſome obſervation: Coke upon Lyttelton, ſect. 97.

"And after ſuch a voyage royal into Scotland, it is commonly ſaid, that, "by authority of parliament, the eſcuage ſhall be aſſeſſed, and put in "certain; that is to ſay, a certain ſum of money, how much every one "which holdeth by a whole knight's fee, which was neither by him- "ſelf, nor by any other for him, with the king, ſhall pay to his lord, of "whom he holds his land by eſcuage. As, put the caſe, that it was "ordained by the authority of the parliament, that every one which "holdeth by a whole knight's fee, who was not with the king, ſhall "pay to his lord 40 s. That he which holdeth by the moiety of a "knight's-fee, ſhall pay to his lord but 20 s. and he which holdeth by "the fourth part of a knight's-fee, ſhall pay but 10 s. and he which "hath more, more; and which leſs, leſs. And ſome hold by the "cuſtom, that, if eſcuage be aſſeſſed by authority of parliament at any "ſum of money, they ſhall pay but the moiety of that ſum, and ſome "but the fourth part of that ſum. But becauſe the eſcuage that they Sect. 98. ibid. "ſhould pay, is uncertain; for that it is not certain how the parliament "will aſſeſs the eſcuage, they hold by knight's-ſervice. But otherwiſe "it is of eſcuage certain, of which ſhall be ſpoken in the tenure of "ſocage." The ſame author ſays, in his chapter on ſocage, ſect. 120. "Alſo if a man holdeth of his lord by eſcuage certain, i. e. in this man- "ner, when the eſcuage runneth, or is aſſeſſed by parliament, to a greater "or leſſer ſum, that the tenant ſhall pay to his lord but half a mark for "eſcuage, and no more nor leſs, to how great a ſum, or to how little the "eſcuage runneth, &c. ſuch tenure is tenure in ſocage, and not knight's- "ſervice."

The former chapter on eſcuage further declares, ſect. 100. "And it "is to be underſtood, that, when eſcuage is ſo aſſeſſed by authority of "parliament, every lord of whom the land is holden by eſcuage, ſhall "have the eſcuage ſo aſſeſſed by parliament; becauſe it is intended by

" the law, that, at the beginning, ſuch tenements were given by the lords " to the tenants to hold by ſuch ſervices, to defend their lords, as well " as the king, and to put in quiet their lords and the king from the Scots " aforeſaid. And becauſe ſuch tenements came firſt from the lords, it " is reaſon that they ſhould have the eſcuage of their tenants. And the " lords, in ſuch caſe, may diſtrain for the eſcuage ſo aſſeſſed; or they, in " ſome caſes, may have the king's writs directed to the ſheriffs of the " ſame counties, &c. to levy ſuch eſcuage for them, as it appeareth by " the regiſter."

All that is ſaid about eſcuage, in the paſſages here recited, relates to the methods in which it was raiſed upon the *ſub-vaſſals:* and it is declared that they pay it by right of their tenure, *becauſe it is intended by the law, that, at the beginning, ſuch tenements were given by the lords to the tenants to hold by ſuch ſervices, &c.* And though mention is only made of a war againſt Scotland, as if they had been bound to ſerve no where elſe, Lord Coke obſerves very rightly, " that Scotland is only put for an ex- " ample; for that, if the tenure be in Walliam, Hiberniam, Vaſconiam, " Pictaviam, &c. it is all one."

But it is further obſervable, that, from the words, *after ſuch a voyage royal into Scotland, it is commonly ſaid, that, by authority of parliament, the eſcuage ſhall be aſſeſſed, and put in certain,* it ſeems as if the aſſeſſment by parliament was poſterior to the expedition for which the eſcuage was to be paid. Whereas it is ſaid by R. de Monte, that Henry the Second took eſcuage on account of his expedition againſt Toulouſe, before he went thither: " Rex Henricus *iturus in expeditionem prædictam, et con-* " *ſiderans longitudinem et difficultatem viæ*, nolens vexare agrarios milites, " nec burgenſes, nec ruſticos, *ſumptis* LX *ſolidis Andevagenſium in Nor-* " *mannia de feudo uniuſcujuſque loricæ, et de reliquis omnibus, &c. ſecun-* " *dum hoc quod ei viſum fuit, capitales barones ſuos cum paucis ſecum duxit,* " *ſolidarios vero milites innumeros:*" (V. Chron. Norm. p. 995.). Probably it was found more convenient to make the aſſeſſments after the ſervice, than before, as it could not be previouſly known from what number of the tenants by knight-ſervice it was to be taken, becauſe the payment of it might be avoided by thoſe, who either went in perſon themſelves, or ſent men to ſerve for them. But the declaration, that the king would accept it in lieu of perſonal ſervice, muſt have been prior to the time of performing the ſervice: for, otherwiſe the perſons concerned would not have known, whether they might have the benefit of ſuch a commutation. Perhaps notice of this may have been given by the ſummons.

It

It appears, from the paſſages above-cited, that ſome military tenants held under condition of paying but half of the eſcuage aſſeſt by the parliament, and others but a fourth. Nay, ſome there were, who ſo held, as that they were only to pay half a mark to their lord upon an aſſeſſment of eſcuage, whether higher or lower; which was called eſcuage certain; and ſuch tenants were not underſtood to hold by knight's-ſervice, but their tenure was ſocage. This was a great deviation from the firſt inſtitution of military fiefs; ſo great, that it entirely altered their nature. But I find no trace of any ſuch thing in the times that I write of; nor does it appear, that it extended to tenants in chief. All that Sir Thomas Lyttelton ſays of ſuch tenants is towards the latter end of his chapter on eſcuage, after having treated of the manner in which it was paid by their vaſſals: "*But of ſuch tenants, as hold of the king by eſcuage, "which were not with the king in Scotland, the king himſelf ſhall have the "eſcuage.*" Sect. 101. Lord Coke ſays, in his notes to ſect. 97. of the ſame chapter, "*Here is a ſecret of law included, that, albeit eſcuage un-"certain be due by tenure; yet becauſe the aſſeſſment thereof concerned ſo "many, and ſo great a number of the ſubjects of the realm, it could not be "aſſeſſed by the king, or by any other but by parliament; and this was by "common law.*" He adds, "*No eſcuage was aſſeſſed by parliament ſince "the reign of Edward the Second.*" Nevertheleſs it appears, that, when Lyttelton wrote, it was the common opinion, that it ſhould be ſo aſſeſſed. And he ſeems to ſpeak of it as *law*.

Lord Coke alſo ſays, "And it is to be obſerved, that, if he that holds "of the king by eſcuage goeth, or findeth another to go for him, with "the king, &c. then he ſhall have eſcuage of his tenants, that hold of "him by ſuch ſervice, *which muſt be aſſeſſed by parliament.* But, if the "king's tenant goeth not with the king, then he ſhall pay for his de-"fault eſcuage, *and ſhall have no eſcuage of his tenants.*" This latter aſſertion is falſe; for Mr. Madox ſays, in his Hiſtory of the Exchequer, that "when the lord, holding *in capite*, did perſonal ſervice in the king's "army, *or paid, or became duly charged with his eſcuage to the king; he "was entitled to have eſcuage of his tenants for the fees which they held of "him, and which he held of the king in capite.*" And this he proves by records. For inſtance, in the reign of Henry the Third, Henry de Braybrok had a writ of aid directed to the ſheriff, *to diſtrain the knights who held of him the fees, which he held of the king in capite, for the eſcuage which he ſtood charged with at the Exchequer.* Mr. Madox adds, "that, in the "elder times, in caſe the lord was entitled to receive eſcuage of his "tenants, ſuch eſcuage was uſually collected by the lord *per manum ſuam*, "who uſed to juſticiate or diſtrain his tenants to pay it. Whether it was

Sect. 97, & ſequent.

V. Madox Hiſt. Exchеq. c. 16. ſect. 8. Sect. 9.

" all along neceſſary for the lord to have the king's leave or authority to " collect his eſcuage, *per manum ſuam*, or no; ſuch leave or authority " was ſometimes granted to particular lords." But he ſhews, that afterwards eſcuage was collected by the ſheriffs of the counties. " In the " twenty-ſeventh year of Henry the Third, *when eſcuage was granted to* " *the king by the common-council of the realm*, writs were awarded to the " ſheriffs of the counties, commanding them to take inquiſition by oath " of knights, and lawful men, to find what lands were holden of the " king, or of others, who held of the king *in capite*, whether of the " new feoffment or the old, and to diſtrain the tenants of ſuch fees, to " pay their eſcuage for the ſame."

P. 110. *But as Victor came, and ſubmitted his cauſe to the council, it gave a reaſonable prejudice in his behalf: his adverſary was cenſured as guilty of contumacy; and, after a proper examination of witneſſes, he was declared to have been duly elected.*

That he was duly elected, I will not affirm; but certainly the pre-engagement, which it appeared that the cardinals of Alexander's party had laid themſelves under before the election, was contrary to the liberty required by the canons. (V. Radevicum, l. ii. c. 52. 71.) And if the nobility, people, and clergy of Rome had a right to interfere in it (as, notwithſtanding the Bull of Pope Innocent the Second, I preſume they had) Victor, whom, it ſeems, they all inclined to ſupport, may, upon the whole, have had a majority of votes in his favour. But though mention is made, in ſome of the letters which juſtify his election, of their having very ſtrongly declared themſelves on his ſide, yet the principal ſtreſs was not laid upon that, but upon the diſqualification of the cardinals his opponents, by the oaths they had taken; becauſe, I ſuppoſe, to deny the authority of a papal decree was not thought prudent; and the other plea was ſufficient to prevail on the council to determine for Victor.

P. 116. *and prevailed upon them to celebrate the form of a marriage, or public and ſolemn eſpouſals, between Henry his ſon, not yet ſix years old, and Margaret of France, who was ſtill a younger infant.*

V. Diceto Imag. Hiſt. ſub ann. 1160. & 1155.

Diceto ſays, that Prince Henry at this time was ſeven years old; but this muſt be a miſtake; for (as he tells us himſelf in another place) that prince was born on the laſt day of February, in the year 1155; with which date of his birth the other contemporary hiſtorians agree. The ſame author ſays, that the princeſs of France at this time was three years old; but I ſhould ſuppoſe her older; becauſe I think, that King Henry would

would hardly have deſired to have her ſent into Normandy, while ſhe was at the breaſt of her nurſe, as ſhe muſt have been in the year 1158 if ſhe was but three years old in 1160.

P. 129. *who remained in the monaſtery of Bourgdieu, in Berry.*

This convent is called, by the hiſtorians of thoſe times, *Monaſterium Dolenſe*; and Pope Alexander's letters from thence are dated *apud Dolum*, becauſe it was founded by the lords of *Deols*: (V. Boulanvilliers Etat de la France, t. ii. p. 201.) A caſtle adjacent to it is, for the ſame reaſon, called *Caſtrum Dolenſe*. It muſt not be confounded with Dole in Franche Compté.

P. 134. *Nay, even theſe biographers themſelves acknowledge, that one reaſon, which induced Henry to promote him to Canterbury, was, becauſe he hoped, that, by his means, he ſhould manage eccleſiaſtical, as well as ſecular affairs, to his own ſatisfaction.*

This is confirmed by Fitſtephen, another of Becket's hiſtorians, in the following words: "Statuit ergo rex Angliæ cancellarium ſuum in archi-"epiſcopatum promovere, intuitu meritorum perſonæ, *confidens, quod ſibi* "*ad placitum et nutum, ut cancellarius fecerat, archiepiſcopus obſequeretur.*" V. Stephanid. in vitâ S. T.

P. 147. *they did not deny the words which were laid to their charge; but alledged, that they were ſpoken when their minds were heated and diſordered with wine.*

Giraldus Cambrenſis, from whom I relate this particular, tells us, that one of the company ſaid to Henry, "*Perhaps we did ſay the words we are* "*charged with; and we ſhould have ſaid ſtill worſe, if our wine had not* "*failed us.*" As Plutarch aſcribes the very ſame anſwer to ſome ſubjects of Pyrrhus, in his Life of that prince; I rather ſuppoſe, that this hiſtorian applied the expreſſion he found in that author to a ſimilar caſe, than that it was uſed in this inſtance. But as it is certain he was far from being diſpoſed to invent any fiction to King Henry's advantage, I make no queſtion that this ſtory is true in the main; to wit, that ſome perſons, accuſed before that monarch of having talked of him too freely, over their cups, pleaded their ebriety in excuſe of it, and were generouſly forgiven. It is obſervable, that Giraldus particularly mentions the biſhop of Worceſter, as implicated in this affair; a prelate whoſe name he would hardly have made uſe of, without good authority, upon ſuch an occaſion. V. G. Cambrenſ. de Vitis ſex Epiſcopor. coetaneor. in Angl. ſacra, par. ii p. 427.

Another remarkable inſtance of Henry's clemency and good-nature towards the ſame prelate is given by Fitſtephen. He tells us, that the P. 64, 65.

biſhop,

biſhop, who was ſon to Robert earl of Gloceſter, and had been bred up with the king under his father's tuition, reproached that monarch, in an angry converſation between them, with having acted unkindly towards his brothers and himſelf, which was an ill requital of the great ſervices done by that nobleman to him and his family; and alſo with detaining the revenues of the church. Theſe complaints being made in the hearing of many perſons, with great freedom and ſharpneſs, a knight of Aquitaine, who was preſent, and did not know the biſhop, enquired, who it was, that ſpoke to the king in ſuch a manner? And being told, he made anſwer, *that it was happy for the king the man was a prieſt; for had he been a ſoldier, he would not have left that prince two acres of land.* Whereupon another of the court, thinking to recommend himſelf by it to Henry, chid and threatened the biſhop. But the king took his part, and ſeverely reprimanded the officious zeal of the courtier.

V. Stephanid. in vitâ S. T. Cantuarienſis, p. 16, 17.

P. 148. *The king's good humour ſeems indeed to have been ſometimes too playful, in the eye of the public.*

Of this Fitſtephen has given us an extraordinary inſtance. He tells us that one day, as the king and Becket, his chancellour, were riding together through the ſtreets of London, in cold and ſtormy weather, the king ſaw coming towards them a poor old man, in a thin coat, worn to tatters. Would it not be a great charity (ſaid he to the chancellour) to give this naked wretch, who is ſo needy and infirm, a good warm cloak? Certainly, anſwered that miniſter, and you do the duty of a king in turning your eyes and thoughts to ſuch objects. While they were thus talking, the man came near; the king aſked him, if he wiſhed to have a good cloak? And turning to the chancellour ſaid; *You ſhall have the merit of this good deed of charity:* then ſuddenly laying hold on a fine new ſcarlet cloak lined with furr, which Becket had on, he tried to pull it from him, and, after ſome ſtruggle, in which they had both like to have fallen from their horſes, prevailed. The poor man had the cloak, and the courtiers laughed, like good courtiers, at the pleaſantry of the king.

P. 150. *Before her death ſhe retired to the Nunnery of Godſtow, near Oxford, and there ſhe died.—Henry beſtowed large revenues on the convent*, &c.

In the Diſſertation concerning Fair Roſamond, annexed to the fifth volume of Rapin's Hiſtory of England, tranſlated by Mr. Tindal, fourth edition, the authority of Nicholas Trivet is quoted to prove, that the Nunnery of Godſtow was founded by King John. But that it was founded in the reign of King Stephen, and that the body of Roſamond

was

was depoſited there during the life of her lover, King Henry the Second, appears undeniably from ſeveral records, that are publiſhed by Dugdale, in the firſt volume of his Monaſticon, and in the additions to it annexed to the ſecond. Another miſtake made in the Diſſertation abovementioned, is the ſuppoſing that the biſhop of Lincoln, who ordered the body of Roſamond to be removed out of the church, was the famous Groſteſt, who held that ſee under Henry the Third; whereas it was done in the reign of Richard the Firſt, anno dom. 1191, by Hugh, biſhop of Lincoln; as we are informed by Roger de Hoveden, who lived at that time. (V. Hoveden, f. 405. b. lin. 20. ſub ann. 1191. ann. pars poſter.) There is in the Monaſticon a fragment from Leland, which ſays: "Roſamonde's Tombe "at Godeſtowe Nunnery was taken up a late: it is a ſtone with this in- "ſcription, *Tumba Roſemundæ*. Her bones were cloſed in lede, and, "withyn that, bones were cloſed yn lettter [leather]: *when it was opened* "*there was a very ſwete ſmell came out of it.*"

V. Monaſt. t. i. p. 525. ad 529. Additament. ad t. i, ii. p. 884.

P. 161. *A late ingenious French writer has very juſtly obſerved, that wearing ſuch enſigns on their ſhields and appropriating them to diſtinguiſh particular families, could not have been the general practice in Europe till after the death of William the Conqueror: for, if it had, his ſon Robert muſt have known him by his armour, and could not have ignorantly thrown him to the ground, as hath been related in the book prefixed to this hiſtory.*

To this obſervation I will add, that the laborious Herald, Mr. Sandford, ſays, in his Genealogical Hiſtory of the Kings and Queens of England, that "*Gules* 2 *Lions paſſant regardant or* are the arms *aſſigned* to "William the Conqueror, as alſo to Robert duke of Normandy, King "William the Second, and King Henry the Firſt, derived *(as tradition* "*tells us)* hereditarily from Rollo, the firſt duke of Normandy; who is "ſaid to have born in his eſcocheon or ſhield the ſame charge, affecting, "as ſeveral other Norman princes did, that ſovereign beaſt, *the lion.*" But then he adds, "I term theſe arms *attributed, or aſſigned*, becauſe I "cannot find either by monuments, coins, ſeals, or any contemporary au- "thor, that ſuch were in uſe with theſe ſeveral princes; but that fol- "lowing ages did aſſign or fix them upon the Norman line, to diſtin- "guiſh it from the ſucceeding Plantagenets, that did bear *Gules* 3 *Lions* "*paſſant guardant or* (King Henry the Second, the firſt of that race "adding to the Norman arms the lion of Aquitaine of the ſame metal, "in a field of that colour, in the right of Eleanor his wife, heir of that "country) and for this cauſe are they painted for the conqueror, upon "the tomb of Queen Elizabeth, in Henry the Seventh's chapel at "Weſtminſter,

" Weſtminſter, *impaled* with thoſe of Queen Maud of Flanders his wife;
" arms *attributed* to the foreſters and firſt earls of Flanders to the time of
" Robert the Friſon: and the arms alſo of King Henry the Firſt, *im-*
" *paling* them of Queen Maud of Scotland: *when indeed impalements*
" *were not known before the time of Henry the Third, if ſo ſoon*; as I ſhall
" prove in it's proper place." Yet the ſame author ſhews, that *devices* were uſed in the time of the conqueror, *but taken up and laid down at pleaſure*. And ſays, " *'Tis probable the reaſon why the ſhields of that age*
" *were left blanks, or of one ſimple colour or metal, was to receive the impreſs*
" *of every fancy, that either pleaſed the bearer or the painter.*"

P. 171. *This ſeems to have been the conſtant ſupport of the navy: but upon extraordinary occaſions danegeld was levied; and, although at the end of that century the name was loſt, a like proviſion was often made, in every age, by our parliaments, for the defence of the Britiſh ſeas and ſecurity of the kingdom.*

Rot. Parl. 45 Edw. III. the commons pray, *that the franchiſes of the ſea towns and havens may be allowed to them as heretofore*; and ſay, *that by default thereof the navy of England is much decayed*," &c. Theſe *franchiſes* were, the being diſcharged of armies and defence at land, and of all ſubſidies granted in parliament. But Mr. St. John, in his ſecond day's argument for ſhip-money, obſerves, that theſe were for ordinary ſervice: *hidage* and *danegeld* for extraordinary. Bracton ſpeaks of *hidages* as not being feudal dues, but among thoſe grants that were *de neceſſitate et ex communi conſenſu totius regni introducta.* (V. Bracton, l. ii. p. 37.) Danegeld was a *hidage*, being laid upon hides of land. Forteſcue ſays, that in his time (under Henry the Sixth and Edward the Fourth) the king had the ſubſidy of tonnage and poundage for the keeping of the ſea, and that it ought to be applied to no other purpoſe.

See Forteſcue of abſolute and limited Monarchy, p. 44. c. 6.

P. 179. *A knight's-fee ſeems to have been uſually compoſed in thoſe days of two hides of land, or of two hides and a half.*

Sir Henry Spelman ſays, " that the Normans changed the name of a
" hide of land, and called it *carue*, a *ploughland*; and, as it ſeemeth, in
" erecting and laying forth their knight's-fees, aſſigned ordinarily two
" *carues* or *ploughlands* to a knight's-fee. For 'tis noted out of the *Black*
" *regiſter* of St. Edmond's-bury, that William the Conqueror gave to
" Baldwin, then abbot there, eighty ploughlands, from which he might

" conſtitute forty knights-fees, *octoginta carucatas terræ, unde feodaret* " *quadraginta milites.*" (V. Spelman's treatiſe on Feuds and Tenures, c. 27.) But it appears from the rolls in the reign of Henry the Second, that two knights held five hides of the biſhop of Chicheſter for two knights-fees, and ten hides had been taken from the demeſne of that ſee, to enfeoff four knights, ſoon after the Norman conqueſt. By the Red Book of the Exchequer it appears, that in Henry the Second's reign a diſtinction was made between knight's-fees of *the old* and of *the new feoffment*. The latter were thoſe that had been granted after the death of Henry the Firſt; and ſome of them, being ſmaller than the former, paid only twelve ſhillings for ſcutage, when the former paid twenty. But others of them were charged at the ſame rate to thoſe payments, and muſt therefore have been nearly of the ſame value. I likewiſe obſerve in the rolls, that ſeveral barons, who had fees *of the old feoffment*, were alſo poſſeſſors of ſome *of the new feoffment*; and, upon the whole, I ſee no reaſon to believe, that *a diſtinct and inferior order of barons* was conſtituted by theſe tenures, as ſome have thought.

V. Madox hiſt. of the Exchequer. c. 15. p. 400.

V. Mag. Rot. 14 Hen. II. Rot. 6. de Auxilio Matildæ filiæ regis Earl of Warwick and William de Albiney.

P. 179. *Sir H. Spelman ſays, that a meſne tenant, who had more than a ſingle knight's-fee was called a* vavaſor, *which, he thinks, was a degree above knights: yet we generally find that name applied to any vaſſal, who held a military fief of a tenant in chief of the crown.*

Many proofs might be given of this from books and *records* of that age. Mr. Selden ſays, in his Titles of Honour, part II. c. v. ſect. xvii. " There were two kinds of knight's-fees (as to this day alſo there are); " thoſe that were held in chief of the king; and thoſe that were held by " a meſne tenure, called alſo anciently *vavaſories*. Of the firſt kind only, " theſe baronies (as alſo the baronies or honours of earls) were made; " and they, *by ſubinfeudation* for the moſt part, made the ſecond. And " by themſelves and others provided at their own charge, or by their " tenants (whom they made by ſuch ſubinfeudation), they performed " the ſervices reſerved by the king. As, if the king gave twenty " knights-fees to be held in chief, or lands to be held by the ſervice of " twenty knights or men at arms (which was the ſame kind of gift), if " *the patentee* infeoffed others of part to be held under him (for example) " by the ſervice of fifteen knights, then the king was ſerved, at the " charge of his baron *the patentee*, with five knights; and the other " fifteen were ſupplied by thoſe that held the reſt by meſne tenures; " yet ſo, that, if they failed in their ſervice, the baron was to pay eſcuage,

" according to their number, to the king, and to have his like remedy " againſt them." Concerning eſcuage much is ſaid in other places of this work; but I would obſerve here, that, in uſing the word *patentee*, Mr. Selden could not mean, that, in the times when this military policy was eſtabliſhed, there were any barons *by patent*, but it is ſignificant of the terms on which the lands were granted.

P. 180. *but theſe inſtances were extraordinary; the far greater number of the military tenants in chief having many ſubvaſſals.*

See note to p. 159.

The learned Mr. Juſtice Wright has well obſerved, in his Introduction to the law of tenures, that, ſince it is clear that ſubinfeudations were warranted by the feudal law, and that they were an original and neceſſary branch of the feudal policy itſelf, the doubt whether the king's tenants had a liberty of diſpoſing of any of their lands to hold of themſelves could not be very ancient: and he argues ſtrongly to ſhew, that the firſt commencement of it was not earlier than the time of Henry the Third, from the ſtatute 34 Edw. III. cap. 15. which makes good all ſuch alienations (or ſubinfeudations) made by thoſe who held of the king's *great grandfather*, or of other kings before him, expreſly ſaving his prerogative of the time of his grandfather, father, and of his own time.

It will be well worth the reader's while to ſee all that is ſaid by the abovementioned writer concerning the reſtraint laid by Magna Charta, c. 32. on the practice of alienating ſo much of a fief, as not to leave enough for the performance of the ſervice due to the lord from his vaſſal, and afterwards by the ſtatutes, *Quia emptores terrarum*, and *De prerogativa regis*. I will only obſerve, that, though the power of *ſubinfeudation* ſeems to have been conſonant to the original policy of fiefs, without any diſtinction between thoſe who held of the king, or of other inferior lords, yet the limitation of it, in all caſes, within the bounds preſcribed in thoſe laws, for the ſecurity of the ſervice on which the tenure was founded, appears alſo to have been a neceſſary and inherent condition of all ſuch grants, the departure from which, if not checkt, would have been finally deſtructive to the whole feudal ſyſtem.

P. 181. *But, in the caſe of invaſions*, the common law of the land *continued undoubtedly to oblige, not only thoſe tenants, but all the other freeholders, to aſſiſt in repelling and driving out the invaders.*

The limitation expreſſed in the ſtatute of 1 Edw. III. viz. *that no man be compelled to go out of his ſhire, but where neceſſity warranteth and ſudden*

ſudden coming of ſtrange enemies into the realm, I take to have been always the law of England. The ſtatute concludes with a reference to the ancient practice of that law, *And then it ſhall be done as hath been uſed in times paſt for the defence of the realm.* The firſt clauſe of the ſame act, viz. *The king wills that no man from henceforth ſhall be charged to arm himſelf otherwiſe than he was wont in the time of his progenitors, kings of England*, refers alſo to ancient uſage, and to the aſſiſe of arms in the reign of King Henry the Second, which is again referred to and confirmed by the ſtatute of Wincheſter in the 13 Edw. I. c. vi.

Ibid. *During the government of the Saxons (if we may believe what is ſaid by the compiler of ſome laws aſcribed to Edward the Confeſſor) the militia of every county was commanded by an annual officer called* Heretoch, *who was choſen into that office by all the freeholders, in the folkmote, or county court.*

The authority of that collection of laws, in which this paſſage occurs, I think indeed very ſlight; but what makes me believe, that the compiler of it did not err in this point, is it's agreement with the ancient German laws, which Sir H. Spelman takes notice of, and ſeems on that account to conſider it as authentick. (V. Spelman's Gloſſ. p. 288. De Heretochiis.)

Ibid. *Sir H. Spelman ſuppoſes, that, after the Normans came in, this command devolved to the earl. And there is great reaſon to think, that the military power of every county was principally in the earl, during the times of which I write, though it was occaſionally exerciſed by the ſheriff, or viſcount.*

Spelman's words here referred to are in his Gloſſary under Comes, "Quo edoctus exemplo Gulielmus I, novi utique apud Anglos regni "fundamenta ponens, commilitones ſuos feodalibus exornavit dignitati-"bus, forte etiam auctioribus quam ævo Saxonum. *Nam ceſſiſſe jam "videtur munus Heretochii comitatus in manu ipſius comitis.*" That the earls had the chief command of the militia of the county in the reign of William the Firſt, and till after the deceaſe of Henry the Second, appears, I think, from many clear hiſtorical proofs: and in all the accounts of thoſe times I meet with no trace of any officer *elected* to ſuch a command.

Ibid. *But, whether even the Saxon* Heretoch *was not ſubordinate to the earl in his military functions, appears to me very doubtful.*

Several reaſons induce me to this doubt, and among others this paſſage in Florence of Worceſter, " Talia geri in ſuo comitatu Godwinus " graviter ferens, nimiâque commotus irâ, *de toto ſuo comitatu*, ſcilicet de " Cantiâ &c. et filius ejus primogenitus Swanus *de ſuo* &c. alterque filius " Haraldus *de ſuo* &c. *innumerabilem congregaverunt exercitum.*" From hence it ſhould ſeem, that the power of the earls over the military force, in their ſeveral counties, was, in the Saxon times, ſuperior to that of the *Heretoch* elected by the people. Perhaps that officer was no more than lieutenant under the earl. But indeed (to uſe the words of the learned Mr. Selden) " moſt parts of the ſtate of the Saxon government " are ſo obſcure, that we can ſee only ſteps or torn reliques of them, " rather than ſo much as might give a full ſatisfaction."

V. Fl. Wig. ſub ann. 1054.

Titles of Honour, c. 5. part ii.

P. 184. *Archers were drawn from the yeomanry; and ſeem to have ſerved on foot, as attendants on the vaſſals who held by knight's-ſervice, and at their charge; or, ſometimes, under the pay and at the charge of the king.*

I read of no archers on horſeback in the age of which I write, unleſs they were comprehended under the term *ſervientes*, ſome of which were light horſemen: but in Edward the Third's reign mention is made in a roll of parliament of two hundred archers on horſeback; and, in the ſeventh year of Richard the Second, the biſhop of Norwich offered to ſerve the king abroad with 3000 men at arms, and 2500 archers, *well horſed and appointed.* And when Lionel earl of Clarence went with an army into Ireland, he carried with him thither many archers on horſeback, whoſe pay was ſix-pence a man *per diem*, the ſquires in the ſame army being rated at one ſhilling a man *per diem*, the knights, at two ſhillings, and the bannerets at four ſhillings. There were likewiſe ſome archers at four-pence *per diem*, who, I preſume, ſerved on foot. The earl of Ormonde had under him, beſides his knights and ſquires, twenty *hoblers* armed, and twenty not armed; the pay of the former being ſix-pence a piece *per diem*, and of the latter four-pence. Theſe *hoblers* were Iriſh horſemen, ſo called becauſe they ſerved on *hobbies*. How much the ſtrength of the nation was then thought to depend on the ſkill and valour of it's archers appears from a letter of the duke of Guelderland to King Richard the Second, in which he uſes this expreſſion, " The tried " valour of your people, and *the ſharpneſs of their victorious arrows*, " have ſo far advanced the fame of your magnanimous nation above any " of the Weſt, that terror and dread cannot but ſeize your adverſaries."

See Cotton's abridgement of the records in the Tower, p. 21. 13 E. III. & p. 281. 7 R. II.

Ibid. p. 560. 31 H. VI.

In Henry the Sixth's reign the commons granted to the king *twenty*

thouſand archers for half a year in his ſervice. And Forteſcue ſays, in his treatiſe of Abſolute and limited monarchy, written in the reign of Edward the Fourth, *that the might of the realm of England moſt ſtandeth upon archers.* C. 12.

P. 185. *Father Daniel obſerves, that this eſtabliſhment paſſed from the demeſne of the kings of France into thoſe of his greateſt vaſſals, the dukes of Burgundy,* the dukes of Normandy, *and ſeveral others.*

It muſt not from hence be ſuppoſed (as it has been by ſome writers) that, till theſe privileges were granted by Louis le Gros, none had been enjoyed by any cities in France or Normandy. Ordericus Vitalis takes notice, that in the year eleven hundred and ſix King Henry the Firſt, being favourably received by the citizens of Rouen, *reſtored the ancient dignities of that city.* " Rex ſiquidem cum duce Rotomagum adiit, et à " civibus favorabiliter acceptus paternas leges renovavit, *priſtinaſque urbis* " *dignitates reſtoravit.*" The ſame author ſays of the ſame king, that, in a treaty with his brother, the duke of Normandy, he retained only the town and caſtle of Dumfront in that dutchy, becauſe he had promiſed the citizens upon oath, that he would never ſeparate them from his demeſnes, *nor change their laws and cuſtoms:* " Quia Damfrontanis, " quando illum intromiſerunt, jurejurando pepigerat, quod nunquam " eos de manu ſuâ projiceret, *nec leges eorum vel conſuetudines mutaret.*" Theſe laws and cuſtoms muſt have been *privileges* granted to the townſmen, which others did not enjoy; as they were ſo deſirous to prevent their being changed. The enfranciſements of *ſerfs* in towns, and eſtabliſhing therein a new military power independent of the nobility, were indeed *innovations*, which took their riſe from the inſtitutions of Louis le Gros, and came from France into Normandy, and even into England. Some corporations, which did not before exiſt, might be alſo *created* at that time; but many others, I preſume, were only *new-modelled.* This ſeems to have been the caſe of the city of Rouen at ſtill a later period. For Ducheſne has given us a charter, which directs in what manner a mayor ſhall be elected, and eſtabliſhes other regulations for the government of that city, but with a reference to the conſtitution of a former community upon a different model. It is without date, but ſeems to be from Philip Auguſtus, by ſome of the terms therein uſed. (See Ducheſne H. Norm. p. 1066.) It is certain, that in England many cities and towns were *bodies corporate* and *communities* long before the alteration introduced into France by the charters of Louis le Gros.

L. xi. p. 821, 822. apud Ducheſne.

Ibid. p. 788. ſub ann. 1101.

P. 187. *But theſe the courſes of elder times were about this time much altered, and the king, for the moſt part, was ſupplied in his wars by contract with the nobility and gentry, to ſerve him with ſo many men, and ſo long, and at ſuch a rate, as he and they by indenture accorded.*

Sir Robert Cotton ſeems to date this alteration from the reign of Richard the Second; but we find, by the records of parliament, that, in the thirteenth year of Edward the Third, ſeven thouſand four hundred men at arms, two hundred archers on horſeback, and two thouſand halberters, *were ſet out by certain nobles of the counties of York, Nottingham, Derby, Lancaſter, and Cumberland, by particular rate.*

See Cotton's abridgment of the records in the Tower, p. 11. 13 E. III.

Ibid. *Indeed the practice varied much in different ages; though it is plain, from our law books, that the principle of knight-ſervice, due, by the nature of the feudal policy, from all the poſſeſſors of military tenures, remained much the ſame, from the reign of William the Firſt to that of Henry the Seventh; nay, even till Charles the Second aboliſhed thoſe tenures.*

Among the variations from the cuſtom of the ancient feudal tenures we may reckon a clauſe in the ſtatute of the eighteenth of Edward the Third, which ſays, that men of arms, hoblers, and archers, *choſen* to go in the king's ſervice out of England, ſhall be *at the king's wages,* from the day that they depart out of the counties *where they were choſen,* till they return. Theſe, I apprehend, were not men, who ſerved on the ancient plan, according to the duty of their tenures; but were raiſed by the new practice of agreements and covenants between the king and his barons, or tenants in chief by knight-ſervice, and picked from the ſeveral counties. They were not therefore bound, as under the ancient eſtabliſhment, to ſerve forty days at their own charges. Yet no changes in the mode produced any in the nature of feudal military ſervice, on which foundation and principle all theſe contracts were made. By the act of the twenty fifth of Edward the Third, " it is accorded and aſ-
" ſented, *that no man ſhall be conſtrained to find men of arms, hoblers, or*
" *archers, other than thoſe which hold by ſuch ſervices, if it be not by com-*
" *mon aſſent and grant made in parliament:*" which is confirmed by a ſtatute of the fourth of Henry the Fourth, with the following proviſor,
" ſo that the lords nor any other, that have lands or poſſeſſions of the
" country of Wales, or in the marches thereof, *ſhall in no wiſe be excuſed*
" *of their ſervice and devoirs, due of their ſaid lands and poſſeſſions, nor of*
" *any other devoirs or things, whereto they or any of them be bound to our*
" *lord*

" *lord the king; though that the ſame lords and other have other lands and* " *poſſeſſions within the realm of England. And that the lords, or other, of* " *what eſtate or condition that they be, which hold by eſcuage or other ſervice* " *due to the king, any lands or poſſeſſions within the ſaid realm, be in no wiſe* " *excuſed to do their ſervices and devoirs, due of their ſaid lands or poſ-* " *ſeſſions. And that the lords, knights, eſquires, nor other perſons, of what* " *eſtate or condition they be, which hold and have of the grant, or confirm-* " *ation of our lord the king, lands, poſſeſſions, fees, annuities, penſions, or other* " *yearly profits, be not excuſed to do their ſervice to our lord the king in ſuch* " *manner as they are bounden becauſe of the ſaid lands &c.* which was not repealed till the act of the twelfth of Charles the Second.

P. 191. *The treatiſe aſcribed to Glanville &c. tells us, that the relief of a knight's-fee was then fixed at a hundred ſhillings, and of lands held in ſocage at a year's value, by the cuſtom of the kingdom; but that, with regard to baronies and to ſerjeanties, there was no determinate rule of law, thoſe who held by ſuch tenures ſatisfying the king, for the relief due to him from them, at his diſcretion.*

This diſagrees with the charter of Henry the Firſt, which Henry the Second had confirmed: for there it is ſaid, that, upon the death of a baron, or any other tenant who held in chief of the crown, his heir ſhall not *redeem* his land, as had been done in the reign of William the Second, but ſhall only pay *a juſt and lawful relief*; words which evidently imply a known rule of law to direct and aſcertain the payment. It is likewiſe declared, in the moſt authentic original manuſcripts of King John's *Magna Charta*, that one hundred pounds ſhall be paid, on the death of a baron, by the heir, *as the ancient relief*. We alſo find by the Norman law-book called *Le Coutumier*, that this was agreeable to the practice in Normandy, from whence theſe feudal payments were derived to the Engliſh. How then did it happen, that, with regard to the reliefs of baronies and of ſerjeanties, the courſe of law, in the reign of Henry the Second, was different from that practice, and from the charter of his grandfather, which he had confirmed?

See this charter in the Appendix to the firſt volume.

See the charter in Blackſtone's edition from the Cotton and Durham manuſcripts.

V. Coutum. de Norm.

The beſt ſolution I can give of this difficulty is ſuggeſted to me by obſerving, that, from the records which Mr. Madox has given us in his Hiſtory of the Exchequer, it ſeems that Henry the Second took no more for any barony than one hundred *marks*, which being leſs than the relief referred to in the charter, the barons could have no reaſon to complain of his departing from that rule in this point. Another reaſon, which is mentioned in another part of this book, might induce them to leave it diſcreti-

See Hiſt. of the Exchequer. c. 10.

See p. 213.

diſcretionary in the crown, ſo long as that diſcretion was favourably uſed. But the abuſe, that was made of their confidence by King John, may have obliged them to deny it to him and his ſucceſſors. For many other inſtances are to be found in the hiſtory of the Engliſh Conſtitution, that ancient laws, or cuſtoms, which, in the reigns of good princes, had given way to beneficent acts of prerogative, have been claimed and reſtored, in after times, as neceſſary bulwarks to the people againſt oppreſſion. The words of King John's charter, as they ſtand in the two Cottonian manuſcripts and in that of the church of Sarum, by which Mr. Tyrrel corrected Matthew Paris's copy, are theſe. "Siquis comitum vel baronum noſtrorum, ſive aliorum tenentium de nobis in capite per ſervitium militare, mortuus fuerit, et cum deceſſerit hæres ſuus plenæ ætatis fuerit, et relevium debeat, habeat hæreditatem ſuam *per antiquum relevium*; ſcilicet hæres vel hæredes comitis de baronia, comitis integra, per centum *libras*; hæres vel hæredes baronis, de baronia integra, per centum *libras*; hæres vel hæredes militis, de feodo militis integro, per centum ſolidos *ad plus*; et qui minus debuerit, minus det, ſecundum antiquam conſuetudinem feodorum." The two Cottonian manuſcripts are the only originals of this charter now extant, that of Sarum being miſſing. But the copy of it, which is entered in the Red Book of the Exchequer, agrees with theſe, only inſtead of *libras* it has *libram* in the ſection concerning the relief for a barony; which is plainly an error. The charter of the firſt year of Henry the Third, which Dr. Blackſtone has printed from the only original extant, viz. that in the archives of the cathedral at Durham, agrees entirely with King John's in the clauſe here recited, and ſo does the entry of it in the Red Book of the Exchequer at Dublin, only that, inſtead of the words *de baronia integra*, it has *de baronia baronis integra*, but the relief is the ſame, viz. *centum libras*.

See Pine's Engraving and Magna Carta Johan. in Dr. Blackſtone's edition. See alſo Tyrrel's Append. to his third volume.

The ſecond charter of Henry the Third granted in the year 1217, which Dr. Blakcſtone has printed from the original in the Bodleian library, the only one extant, has the ſame clauſe word for word; and ſo has the Talbot manuſcript, from which Dr. Blackſtone has publiſhed the charter of the ninth year of that king, and alſo the Durham manuſcript, which the Doctor calls *an original of ineſtimable value*. But the entry made in the ancient book at Guildhall of the charter of the year 1217, inſtead of *libras* has *marcas*, in the ſection which relates to the relief of a barony; and the ſame reading is found in all the charters of *inſpeximus* of the twenty fifth and twenty eighth of Edward the Firſt, which have been collated by Dr. Blackſtone with the Talbot manuſcript

See theſe charters in Blackſtone's edition.

of

of the charter of the ninth year of Henry the Third, and alſo with that of Durham. What gives ſome authority to this alteration of pounds to marks is a record which Mr. Madox has cited, and by which it appears, that, in the thirty fifth year of King Edward the Firſt, John de Ratynden, couſin and heir of Alice Mucegroſs, paid xi l. 11s. 11d. ob. q. relief, for all the lands which Alice held of the king *in capite*, viz. for the ſixth part of the barony which Hugh Dyve formerly held. In the twenty firſt year of King Edward I, Alice was charged with xxv marks relief for the ſaid ſixth part of a barony; the relief for a whole barony being then charged at *one hundred pounds*. But now, by the *Magna Carta regis de libertatibus Angliæ* (which charter the king by his writ, *quod eſt inter communia de anno* xxix, *commands to be obſerved in all points)*, the king would take but one hundred *marks* for the relief of a barony: and therefore John de Ratynden is charged for the ſame portion of the ſaid barony at the rate of a hundred *marks, et non de tanta ſumma pecuniæ*, as Alice was charged at, viz. a hundred pounds. Mr. Selden alſo cites in his Titles of Honour, a roll of the ſixth year of Edward the Third, by which it appears, that, in the twelfth year of Edward the Firſt, Humfrey de Bohun was charged with fifty marks for a third part of the fiefs which had belonged to Ada de Portu, and with fifty marks for a third part of the honour of Breghnoc, which was a greater ſum than was paid by John de Bohun to Edward the Third, "*eo quod relevium prædictum oneratum fuit tanquam pro tertia parte prædictarum baroniarum ante confectionem Magnæ Cartæ, de libertatibus Angliæ*, quo tempore relevium pro baronia aſſeſſum fuit ad c *libras*, et poſt confectionem ejuſdem Cartæ ad c *marcas tantum*, juxta quarum c marcarum ratam prædictus Johannes de Bohun oneratur ſuperius de relevio dicti avi ſui pro partibus dictarum baroniarum, &c." In this record the words *ante et poſt confectionem Magnæ Cartæ de libertatibus Angliæ*, can mean nothing but *before and after the confirmation of the great charter of Henry the Third*, which (as it is expreſſed in the other record cited by Mr. Madox) the king, by his writ *quod eſt inter communia de anno* xxix, commands to be obſerved in all points. For by this record it appears, that, in the twelfth, and by the other, that, in the twenty firſt year of Edward the Firſt, the relief for a barony was *a hundred pounds*. The alteration therefore was made by the charters of *inſpeximus*, but how they came to vary from the original charter of the ninth of Henry the Third, ſo much to the prejudice of the royal revenue, it is hard to conceive. On the other hand, many reaſons forbid one to ſuppoſe that it ſtood ſo in that charter. For, beſides that the two original manu-

History of the Exchequer, c. x. p. 220.

See Titles of Honour, c. v. par. ii. ſect. 11.

ſcripts, cited before, have it *libras*, the ſame reading is found in the authentick entry of it in the Red Book of the Exchequer at Weſtminſter: and it likewiſe appears by the rolls, that in the very year when the ſaid charter was granted, viz. the ninth of Henry the Third, Walter de Clyfford was charged with a hundred *pounds* for his relief *as for a barony*. I have ſhewn before that the authentick tranſcripts of all the former charters have *libras*, not *marcas*. And if in King John's time the *ancient relief* was a hundred *pounds*, it was ſo in Henry the Third's and Edward the Firſt's. But further, it is evident by the great roll of the tenth year of Richard the Firſt, that a hundred *pounds* was then thought the *reaſonable relief* for a barony. Edward the Firſt muſt have been therefore deceived in this matter by thoſe who made the charters of *inſpeximus* for him. There being no ſtops in the manuſcripts, it is hard to determine, whether the words *ad plus* after *centum ſolidos* relate only to *them*, or to the preceding reliefs of earldoms and baronies in the ſame clauſe; but I rather think that they only belong to the *centum ſolidos*.

See Madox's Hiſtory of the Exchequer, c. x. p. 218.

By the laws of William the Conqueror, the reliefs of earls, barons, and vavaſors, are to be only their horſes and arms, like the *Heriots* of the Saxons: which ſeems to have been injoined by that prince to accommodate the Norman cuſtom in this reſpect to the Saxon; foraſmuch, as many of thoſe laws are Edward the Confeſſor's revived and confirmed. (See Ingulph. and Wilkins Leg. Gul. Conq. p. 22, 23, 24.) But it is obſervable, that the number of horſes and arms required thereby as the lawful relief for an earl, is double to that for a baron, and that for a baron is double to a vavaſor's: whereas it has been ſhewn, that the charters make the relief for a baron the ſame with that for an earl (or but a third leſs, even if we read *marks* inſtead of *pounds)*, and allow no more than a hundred ſhillings for any knight's-fee, which falls very ſhort of one half of the baron's relief. I therefore preſume that thoſe laws were repealed, and that *the juſt and lawful relief* in the charter of Henry the Firſt did not refer to what they had eſtabliſhed, but to the Norman relief, which was the ſame as the ſubſequent charters declare.

C. x. p. 220. Mr. Madox takes notice, in his Hiſtory of the Evchequer, that, although baronies differed much in the number of fees whereof they conſiſted, the relief of each was the ſame: which proves, that it could not be a fourth part of the value of the annual income ariſing out of the barony; as ſome have ſuppoſed.

According to the author of the Dialogue de Scaccario, the relief of a hundred ſhillings was only fixed in his time (under King Henry the

Second) for knight's-fees held of the barons, or eſcheated to the king; not for thoſe that were immediately held of the crown. But no ſuch diſtinction is made by Glanville, and in the charters of King John and Henry the Third it is ſaid, " that the heir or heirs of an entire knight's- See the char-
" fee, *which was held in chief of the king*, ſhould pay *the ancient relief*, ters of Black-
" which was *but a hundred ſhillings at moſt*, and that he who owed leſs ſtone's edi-
" ſhould pay leſs, *according to the ancient cuſtom of fiefs*." tion.

P. 196. *He tells us alſo, that it was a duty incumbent on the lord, to offer a proper match to a female ward in his cuſtody, as ſoon as ſhe was of an age to marry, and alſo to pay her a reaſonable portion. Theſe regulations, and the profit given, by a feudal cuſtom in theſe times, to the king and inferior lords, on the marriage of their vaſſals, conduced to promote propagation, and the encreaſe of the people; for it is probable that few remained long unmarried.*

The duty of the lord to offer a proper match to a female ward in his cuſtody is enforced by the ſtatute of Weſtminſter, in the third of Edward the Firſt, c. 22. which ſays, *that if the lord, to whom the marriage belongeth, will not marry heirs female, after they have accompliſhed the age of fourteen years, but for covetiſe of the land will keep them unmarried, he ſhall not keep, by reaſon of marriage, the lands of ſuch heirs female more than two years after the term of the ſaid fourteen years. And if he do not marry them within the ſaid two years, then ſhall they have an action to recover their inheritance quite, without giving any thing for their wardſhip or their marriage. And if they, of malice, or by evil counſel, will not be married by their chief lords (where they ſhall not be diſparaged) then their lords may hold their land and inheritance until they have accompliſhed the age of an heir male, to wit, of one and twenty years, and further, until they have taken the value of the marriage.* The foundation of this power, given to the lords of heirs female refuſing to marry where no diſparagement would enſue, was the profit that ſuch lords would have made of their marriage; and the reaſon of allowing ſuch profit was the loſs ſuſtained by their lords in giving up their lands, on the marriage of the wards, before the wardſhip was determined. With regard to heirs male, it had before been declared by the ſtatute of Merton; " that if an heir (of what age ſoever he be) will not marry C. vii.
" at the requeſt of his lord, he ſhall not be compelled thereunto; but
" when he cometh to full age, *he ſhall give to his lord and pay him as*
" *much as any would have given him for the marriage before the receipt*
" *of his land*; *and that, whether he will marry himſelf or not: for the*

" *marriage of him that is within age of mere right pertaineth to the lord of* " *the fee.*"

C. vi. The ſame ſtatute alſo ſaid, " that if an heir, being fourteen years " old, or above, unto his full age, ſhould marry without licence of his " lord, *to defraud him of the marriage*, and his lord offer him reaſon- " able and convenient marriage, without diſparagement, then his lord " ſhall hold his land beyond the term of his age, that is to ſay, of one and " twenty years, *ſo long that he may receive the double value of the mar-* " *riage after the eſtimation of lawful men, or after as it hath been offered* " *before, without fraud or colluſion, and after as it may be proved in the* " *king's court.*"

From hence it is evident, that what may be concluded, from the ſilence of Glanville, *not to have been law* in the reign of Henry the Second, was now *become law*, namely, *that the marriage of a male ward, within age, of mere right pertaineth to the lord of the fee*; and was ſo far conſidered *as a profit due to him*, that, although he could not compel his ward to marry, yet he might demand as much *as any would have given him for the marriage*, and the ward was to pay it to him, *whether he married or not*. It appears alſo, that, when the ſtatute of Merton was made, the *value* of ſuch marriage might be *legally eſtimated*; and it was declared, that the penalty of *defrauding the lord thereof*, by a marriage without his conſent, if a reaſonable and convenient one was offered by him, ſhould be *double that value*. But if a female heir was married, though with her father's conſent, without that of her lord, the penalty was a forfeiture of the whole fief for ever, *ſecundum jus et conſuetudinem regni*, ſays Glanville, l. vii. c. 12. which ſtill continued to be law under Henry the Third.

Ibid. *Glanville takes notice of only three kinds of aids, which the feudal lord had a right to demand from his vaſſals*, &c.

There is a remarkable conformity between the ideas of ancient Rome, on the reciprocal duties of *patrons* and *clients*, and thoſe of the feudal law on the reciprocal duties of *lords* and *vaſſals*. I cannot better ſhew this than by repeating the words of the learned Dr. Chapman, in his Eſſay on the Roman ſenate. He ſays (p. 10, 11.) that, by the inſtitutions of that commonwealth, " the patrons were obliged " to aſſiſt their clients *gratis* with their advice and credit upon all " occaſions, and defend their perſons and properties in all civil and " criminal proſecutions: in return for which, the clients were directed

" to contribute to the fortunes of their patron's daughters, if their own " circumſtances did not enable them to marry them ſuitable to their birth; " to their ranſom, or that of their children, who happened to be taken " by the enemy; to the payment of any fines, or coſts of ſuit, they might " be caſt in; or the expence incurred by canvaſſing for any public office." Agreeable to theſe in a great degree are the obligations of *defence*, *protection*, and *warranty*, on the part of the feudal lords, and the *aids* mentioned by Glanville in the paſſage referred to above, together with the *aid of ranſom*, on the part of the feudal vaſſals. Yet it muſt be obſerved, that the whole ſyſtem of feudal duties aroſe from the tenure of lands; whereas thoſe eſtabliſhed between the Roman patrons and their clients were neither founded upon any territorial connexion, nor were they of a military nature, as all feuds originally were; nor was any juriſdiction inherent in the patrons over their clients, as in the feudal lords over their vaſſals; nor was any oath of fealty due from the clients to their patrons, as from the feudal vaſſals to their lords. On which accounts the learned Craig has juſtly rejected the notion of the policy of feuds being derived from theſe inſtitutions.

V. Craig, De Jur. Feudali, l. i. tit. 5. c. 6.

Ibid. *Another was to contribute towards his expence in making his eldeſt ſon a knight*, &c.

According to Breton, no lord could demand this aid of his tenant, if he were not himſelf a knight.

Chap. des priſes des avres.

P. 198. *which ceremonies denoted (according to Bracton) on the part of the lord, protection, defence, and warranty*; &c.

Warranty ſignified an obligation on the feoffer to warrant the ſeiſin or poſſeſſion of the feoffee in his land: or, if he could not maintain it, to make him ſatisfaction by rendering to the value of the fee if it was evicted. (See Wright on Tenures, p. 153, 154.)

Ibid. *After the vaſſal had ſaid this, he was to receive a kiſs from his lord, and then riſing up was to take the oath of fealty in the following words:* " *Hear this, my lord, &c.*

Lord Hale ſays, in his Hiſtory of the Pleas of the Crown, c. x. p. 62, 63. " The oath of fidelity or fealty is of two kinds, that which " is due by tenure, whether of the king or meſne lords, which is *ratione* " *feodi vel vaſſallagii*, and hath a ſpecial relation to the lands ſo held, and " is ſet down by Lyttelton, c. 19. *Hear you, my lord*, &c. Touching this " feudal fealty, or fealty by reaſon of tenure, I have not much to do in " this

" this place. The other kind of fealty is that oath, which is called *fide-*
" *litas ligea*, or *alligiance*, and performed only to a ſovereign prince, and
" therefore regularly ought to be performed by all men above the age of
" twelve years, whether they hold any lands or not. The tenor of this
" oath, according to Fleta, l. iii. c. 16. ſect. 22. runs thus: *Hoc auditis,*
" *circumſtantes, quod fidem regi portabo de vita et membris, et terreno honore,*
" *et arma contra ipſum non portabo: Sic me Deus*" &c. Thus Lord Hale — but I would obſerve hereupon, that I find no proof that the words *et arma contra ipſum non portabo* were in any oath of allegiance till after the times of King Henry the Second. His lordſhip goes on, " According to Briton, who wrote about the fifth of Edward the Firſt, " c. 29. (which is alſo mentioned in Calvin's caſe, 7 Co. Rep. 6.) the " common form of the oath of allegiance taken in Leets, runs thus: " *Ceo oyez vous, N. bailife, que jeo A de ceo jour en avant ſerray feal et leal* " *à notre ſeigniour E. roy d'Angleterre et a ſes heires, et foy et lealte luy* " *porterai de vie et de numbre, et de terrien honour, et que jeo lour mal ne* " *lour damage ne ſaverai ne ovray, que jeo ne le defendray à mon poyer, ſi moy* " *ayde dieu et ſes ſaynts.* This is the form of the ancient oath of allegi- " ance or fidelity to the king, and as it is uſed at this day, &c. It is com- " prehenſive of the whole duty of a ſubject to his prince, and therefore " hath obtained for above ſix hundred years in this kingdom." For the better explaining of the difference between the two kinds of fealty, I will ſuppoſe, that, in the times when the feudal law was in it's vigour, a ſubject of England, who had held a fief of the king, ſhould, by ſome offence or defect of his duty as a vaſſal, have incurred a forfeiture of that fief, and have actually loſt it; in that caſe it is evident, the feudal connexion between him and his ſovereign would have ceaſed and determined; but he would ſtill have been under the bond of fealty and allegiance, which he owed to the king as his ſubject.

P. 199. *Homage done to the king was called ligé homage, &c.*

I do not mean to aſſert (as ſome very eminent writers on feuds have done), that there was no other *lige homage* than what was done to the king. For the contrary appears by many ancient records, particularly by the charter containing the agreement between King Stephen and Henry Plantagenet, then duke of Normandy, in which it is ſaid by the former, " Comites etiam et barones mei *ligium homagium* duci fecerunt, *ſalva* " *mea fidelitate, quam diu vixero et regnum tenebo.*" Which words alſo demonſtrate that there might be *a reſerve* or *ſaving* in lige homage. A late French

French hiſtorian mentions a charter, in which the Sire d'Apremont engages to do *lige homage* to the king of France for his land of Briente ſur Meuſe, and promiſes *to ſerve him againſt all men, except the biſhop of Metz.* The ſame author ſays, on the authority of the *Aſſiſes of Jeruſalem*, that, in the caſe of a war *between two lige lords of the ſame vaſſal*, ſuch vaſſal was bound to aid and ſuccour him to whom he firſt had engaged his allegiance, *becauſe* (ſay the Aſſiſes) *he could not do homage to the ſecond, but with a ſaving of his fealty to the firſt.* Abbé Velli Hiſtor. de France, t. vi. p. 219. Louis IX.

P. 200. *We are aſſured by contemporary writers of the greateſt authority, that, in the reign of William the Conqueror, lige homage was done, and fealty was ſworn to that king, not only by his own immediate tenants, but all the conſiderable ſubvaſſals:* &c.

Ingulphus ſays, " Reverſuſque in Angliam (Rex Wilhelmus ſcilicet) " apud Londonias *hominium ſibi facere et contra omnes homines fidelitatem* " *jurare omnem Angliæ incolam imperans* totam terram deſcripſit" &c. P. 79.

What we are to underſtand by *omnem Angliæ incolam*, is explained by other hiſtorians. Florence of Worceſter and Simeon of Durham ſay, " In hebdomadâ Pentecoſtes ſuum filium Henric. ap. Weſtm. ubi " curiam ſuam tenuit armis militaribus honoravit. Nec multo poſt man- " davit ut archiepiſcopi, epiſcopi, abbates, comites, barones, cum ſuis " militibus, die cal. Aug. ſibi occurrerint Sareſbiriæ. Quo cum veniſ- " ſent, *milites illorum ſibi fidelitatem contra omnes homines jurare coegit.*" V. Flor. Wig. & S. Dunc. ſub ann. 1086.

And Hoveden has the ſame words; only, after *barones*, he adds *vicecomites.* The Saxon chronicle alſo ſays, ſpeaking of the ſame aſſembly held at Saliſbury, by William the Firſt, " Ubi ei obviam venerunt ejus " proceres, *et omnes prædia tenentes, quotquot eſſent notæ melioris per* " *totam Angliam hujus viri ſervi fuerunt, omneſque ſe illi ſubdidere,* " *ejuſque facti ſunt vaſſalli, ac ei fidelitatis juramentum præſtiterunt ſe* " *contra alios quoſcunque illi fidos futuros.*" Henry of Huntington ſays, " Wilhelmus rex fortis, anno decimo nono regni ſui, cum de more " tenuiſſet curiam ſuam in natali apud Gloceſtre, ad Paſcha apud Win- " ceſtre, ad Pentecoſten apud Londoniam, Henricum filium ſuum juni- " orem virilibus induit armis. *Deinde accipiens hominium omnium ter-* " *rariorum Angliæ, cujuſcunque feudi eſſent, juramentum etiam fidelitatis* " *recipere non diſtulit.*" We are therefore to underſtand *omnem Angliæ incolam* in Ingulphus to mean all the military tenants of the barons, and all the conſiderable landholders in England, of whatever lord they held their fiefs. For, though Ingulphus mentions London as the place where this was done, and Henry of Huntington ſeems to confirm that account, V. Hoveden Ann. ſub ann. 1086. Chron. Sax. ſub ann. 1085. V. Huntingd. Hiſtor. f. 212. ſub ann. Wil. I. 19.

I make

I make no doubt it was at Saliſbury, as is affirmed by the other hiſtorians abovementioned, and that he and Henry of Huntington have confounded that aſſembly with the *curia* held at London a little before.

P. 202. *It alſo appears from the words of William of Malmſbury, that,* homage was done and fealty ſworn to the heir apparent of the crown, *in the reign of Henry the Firſt,* by all the freemen of England and Normandy, of whatever order or rank they were, and to whatever lord they were vaſſals."

V. Malmſb. de H. I. l. v. f. 93.

The words of Malmſbury are theſe: "Filium habuit Rex Hen. ex "Matilde, nomine Wilhelmum, dulci ſpe et ingenti curâ in ſucceſſionem "educatum et pervectum. *Nam et ei, vix dum* XII *annorum eſſet, omnes* "*liberi homines Angliæ et Normanniæ, cujuſcunque ordinis et dignitatis,* "*cujuſcunque domini fideles, manibus et ſacramento ſe dedere coacti ſunt.*" Certainly theſe words, like the *omnem Angliæ incolam,* in the citation from Ingulphus given in the laſt note, muſt not be conſtrued too literally, but mean the *omnes prædia tenentes, quotquot eſſent notæ melioris,* the moſt conſiderable landholders of every order and degree. For the numbers of the *liberi homines Angliæ et Normanniæ* were too great to be brought all together, in either country, without extreme inconvenience; and the performance of the ceremonies of doing homage, and ſwearing fealty, would have taken up too much time, and been too fatiguing to the prince who received it from them.

Ibid. *Glanville tells us, that women could take the oath of fealty, but could not do homage; and that, if they were married, their huſbands were to do homage for them.*

L. ii. ſect. 87.

Sir Thomas Lyttelton ſays, in his Book upon Tenures, "that if a "woman ſole ſhall do homage, ſhe ſhall not ſay, *I become your woman*; "for it is not fitting that a woman ſhould ſay, *that ſhe will become a wo-* "*man to any man but her huſband, when ſhe is married:* but ſhe ſhall ſay, "*I do to you homage, and to you ſhall be faithful and true,*" &c. Upon which Lord Coke remarks, "that when Glanville ſays, *a woman ſhall* "*not do homage,* he is to be underſtood, that ſhe ſhall not do *compleat* "*homage.*" But I ſhould rather believe, that, in Glanville's time, ſingle women did none, and that the alteration in the form, which is mentioned by Lyttelton, was an expedient found afterwards, to avoid the objection of an indecency in their homage; as it was alſo in the caſe of eccleſiaſticks. From the obligation laid on the huſband to do homage for the wife it naturally followed, that the barony of a wife, as well as

every

every other fief requiring homage, was, in effect, made over to the huſband; and therefore in thoſe days many barons came to parliament in right of their wives, and by virtue of their marriage were accounted peers of the realm. It has been obſerved in this Hiſtory, that the ſame notion extended to dukedoms and principalities in many parts of the continent.

P. 205. *And it was a general maxim of the feudal law, that a forfeiture of the property of the lord in the fief, and of all his dominion over his vaſſal, was as neceſſary an effect of any great breach or neglect of the duty which he owed to the vaſſal, as a forfeiture of the fief was of a ſimilar crime or neglect in the vaſſal.*

The learned Craig, in his excellent book on the Feudal Law, has theſe words: "De dominorum autem offenſâ hæc generalis regula obſervanda eſt, ubicunque vaſſallus ex ſuâ offenſâ, ſive delicto in dominum, feudo privatur, e regione dominus, ſi idem in vaſſallum delinquerit, directo dominio privatur, etiamſi dominus offenſum commiſerit antequam vaſſallus ſive vaſſalli hæres juraverit, niſi forte jurare requiſitus non juraverit." And then he enumerates ſeveral offences, which if the lord committed againſt the vaſſal, he was thereby deprived of his ſuperiority or dominion over him. (V. Craig, de Jure Feudal. lib. iii. tit. 6. ſect. 13.)

Lord Coke, in his learned notes on the chapter concerning Homage in Lyttelton's Tenures, calls fealty and homage *a perpetual league between the lord and the tenant*. "And ſo firm and ſtrong (ſays he) was this "league, that by the ancient law of England, *Nil facere poteſt tenens "quod vertatur domino ad exhæreditationem vel etiam atrocem injuriam. "Nec dominus tenenti e converſo. Quod ſi fecerit, diſſolvitur et extin-"guitur homagium omnino, et homagii connectio et obligatio, et erit inde "juſtum judicium cum venerit contra homagium et fidelitatis ſacramentum, "quod in eo in quo delinquunt puniantur, ſc. in perſonâ domini, quod amit-"tat dominium, et in perſonâ tenentis, quod amittat tenementum.*" (V. Bracton Fol. 80. Britton Fol. 174.)

From hence aroſe the feudal term *to defy (diffidare)*; that is, to declare the diſſolution of the faith reciprocally pledged between the lord and the vaſſal. And thus we find, that, in the times when the feudal law was in it's vigour, not only the vaſſals *defied* their lords, upon certain occaſions, but the ſame ceremony was uſed by the lords to their vaſſals, nay even by the king himſelf. For Matthew Paris ſays, that in the year 1233 King Henry the Third *defied* the Earl Mareſchall. His words are theſe: "Et his ita geſtis, rex, de conſilio epiſcopi Wintoni-"enſis,

V. Mat. Paris, Hiſt. Angl. H. III. p. 388.

" enſis, *Mareſcallum diffidavit per epiſcopum Menevenſem*, et ſic juſſit " contrà eum arma movere, et ejus caſtella obſidere." Nor can any thing better ſhew the opinion of that age concerning the right of reſiſtance in the vaſſal againſt his lord, tho' that lord was the king himſelf, than the account which the ſame author gives us of a diſcourſe between the above-mentioned earl, and one ſent from the king to expoſtulate with him, and ſhew that he ought to ſubmit himſelf to the king's mercy. I will therefore tranſcribe here ſome paſſages from it, and add a few remarks. The meſſenger ſaid, that he had heard ſeveral of the court declare, it was the duty of the mareſchall to make this ſubmiſſion, " *quia* " *fecit injuriam domino ſuo, qui, antequam rex invaderet terram aut perſo-* " *nam mareſchalli, ipſe invaſit terram domini regis, combuſſit, deſtruxit, et* " *homines interfecit.*" Here the complaint of the earl's having committed an offence in taking up arms againſt the king is made to conſiſt entirely in his being *the aggreſſor*. But he goes on to ſay, " Et ſi ille dicit, " ſe hoc feciſſe ad tuitionem corporis ſui et hæreditatis ſuæ, dicunt quod " non; quia in ipſius corpus et exhæredationem non fuit unquam ali- " quid machinatum. *Nec ob hoc tamen deberet prorumpere contra dominum* " *ſuum, donec oculata fide cognoſceret regem contra ipſum talia cogitare, et* " *ex tunc liceret talia attemptare.*" In theſe words, the only limitation put to the right of the earl to defend his perſon or property againſt the king is, that he ought not to break out into an open revolt, till he had ocular proof of the king's deſigning ſuch things againſt him. His anſwer (as given us by Matthew Paris) was firſt to deny the charge of his being the aggreſſor: " Non eſt verum, *quia rex ipſe*, " *cum ſemper paratus eſſem ſtare juri et judicio parium meorum in cu-* " *ria ſua, et per internuntios plures pluries petii illud, quod ab ipſo mihi* " *ſemper extitit denegatum, terram meam violenter ingreſſus contra omnem* " *juſtitiam invaſit.*" He pleaded, that the king had denied his petition to be brought to a legal trial in the king's court by the judgement of his peers; and had, againſt all juſtice, invaded his lands; notwithſtanding which, he had made peace with him to his own prejudice; but conditionally, that, if the king ſhould not obſerve the articles of that peace, he ſhould be free of homage to him, as he had been before: " *Quod* " *ego eſſem extra homagium ſuum et diffiduciatus ab eo; ſicut prius fui* " *per dominum epiſcopum Menevenſem.*" Wherefore, the king having broken moſt of the articles of the peace or agreement between them, and eagerly deſiring to deprive him of his eſtate and liberty (as he could prove), he had a right to recover his own, and to weaken the king's power by all poſſible means: " *Unde cum fere in omnibus articulis in*

V. Mat. Paris, Hiſt. Angl. H. III. p. 391.

" *forma*

" *forma pacis deficeret, licuit mihi, juxta conventionem meam, quod meum* " *erat recuperare et poſſe ſuum modis omnibus debilitare; maxime cum ad* " *meam deſtructionem et exhæreditationem et corporis captionem anhelaret:* " *et hoc pro certo didici, et, ſi neceſſe eſt, probare poſſum.*" He goes on to ſay, that ſoon after the peace, before he had taken arms to defend himſelf, the king had deprived him of his hereditary office of mareſchal, *without judgement of law*, and refuſed to reſtore it to him: which ſhewed a determination to keep no peace with him; for which reaſons *he thought himſelf abſolved from his homage by the king himſelf*, as he had been before their late agreement; and alledged, *that it was lawful for him to defend himſelf, and by all means to reſiſt the malice of the king's counſellours:* " Et " quod magis eſt, poſt pacem per dies quindecim, antequam Walliam " intrarem, aut ab aliquo me defenderem, *ſine judicio* ſpoliavit me ab of- " ficio Mareſchalli, quod jure hæreditario ad me pertinet et poſſedi; nec " aliquo modo ad illud me reſtituere voluit requiſitus. Unde apertè di- " dici, quod nullam pacem voluit mihi obſervare, cum poſt pacem dete- " rius quam, ante me, pertractarat. *Unde homo ſuus non fui, ſed ab ipſius* " *homagio per ipſum abſolutus; cum ad primam diffidationem redirem, jux-* " *ta dictam conventionem, ut prædictum eſt. Quapropter licuit et licet me* " *defendere, et malitiæ conſiliatorum ſuorum modis omnibus obviare.*"

Being told of the great wealth and power of the king, which would enable that prince to bring againſt him more *foreigners* than he could procure to aid him, he anſwered, that the king was richer and more powerful than he; but leſs powerfull than God, *in whoſe juſtice he truſted, while he maintained and vindicated his own rights and thoſe of the nation:* That he did not confide in *foreigners*, nor ſeek their confederacy; nor would he aſk their aſſiſtance, if not compelled thereto by an unforeſeen and immutable neceſſity: " *Rex ditior me eſt et potentior: verum* " *eſt. Sed non potentior eſt Deo, qui eſt ipſa juſtitia, in quem confido in con-* " *ſervatione et perſequutione juris mei et regni. Nec confido in alienigenis,* " *nec ipſorum appeto confœderationem, niſi, quod abſit, inopinata et immuta-* " *bili fuero compulſus neceſſitate.*" And in anſwer to the charge brought againſt him by the king's counſellors, that, in hatred and to the damage of the king and kingdom, he had confederated himſelf with the king's enemies, particularly the French, the Scotch, and the Welch, he denied the fact as to the French, and juſtified his confederacy with the King of Scotland and the Prince of North Wales, becauſe they were, not enemies but vaſſals to the king, till, by injuries which they had received from the king and his counſellors, they had been driven from their fealty, (as he alſo had been) againſt their will, and by compulſion. For which

V. Mat. Paris, Hiſt. Angl. H.III. p.392.

reaſon he had confederated himſelf with them; that, being united together, they might better proſecute and defend their rights, of which they had been unjuſtly deprived, than they could being ſeparate: "*Item*

V. Mat. Paris, Hiſt. Angl. H.III. p.393.

"*proponunt contra mareſcallum conſiliarii regis, quod conſœderatus eſt capi-*
"*taneis inimicis ejus; videlicet Francigenis, Scotis, et Wallenſibus, et videtur*
"*eis hoc feciſſe in odium et damnum domini regis et regni. Ad hoc dicit ma-*
"*reſcallus, quod de Francigenis falſum eſt ſimpliciter. Quod dictum eſt de*
"*Scotis et Wallenſibus, et (quod) videtur hoc feciſſe in odium et damnum*
"*regis, ſimiliter falſum eſt, præterquam de rege Scotiæ et Leolino principe*
"*Northwalliæ, qui non inimici, ſed fideles ejus fuerunt, quouſque per inju-*
"*rias ipſis a rege et ejus conſiliariis illatas a fidelitate ſua inviti et coacti,*
"*ſicut et ego, alienati ſunt. Et propter hoc cum illis conſœderatus ſum, ut*
"*melius ſimul, quam ſeparati, jura noſtra perquiramus et defendamus; a*
"*quibus injuſtè privati ſumus, et in magna parte ſpoliati.*"

From hence it appears, that the law of England in thoſe days allowed no confederacy of the vaſſals of the crown with any *foreign power*, unleſs in the caſe where a foreign king, or prince, being himſelf a vaſſal of the crown, was oppreſt unjuſtly by the king, and forced to confederate himſelf with his con-vaſſals, for their mutual defence; which kind of aſſociation was deemed to be legal, and no treaſon againſt the king or kingdom. But I would obſerve, that this muſt have rendered it very dangerous for the king to have a foreign prince his vaſſal, particularly one who was ſo near a neighbour to him as the king of Scotland.

I ſhall conclude my citations from this very remarkable part of M. Paris's Hiſtory with ſome words of the Earl Mareſchall, which ſhew that he thought it not only *lawfull*, but *a duty*, to reſiſt the invaſion of his rights by the king.

Ibidem, p. 392.

"*Nec hoc eſſet honor regis, quod voluntati ſuæ conſentirem quæ non eſſet*
"*ratione ſubnixa: imo, facerem ſibi injuriam et juſtitiæ, quam ipſe in ſub-*
"*ditos exercere debet et conſervare. Et malum exemplum darem omnibus,*
"*videlicet, deſerendi juſtitiam et juris perſequutionem, propter voluntatem er-*
"*roneam, contra omnem juſtitiam, et (in) injuriam ſubditorum. Nam ex hoc*
"*appareret, nos diligere plus poſſeſſiones noſtras mundanas, quam ipſam juſtitiam.*"

P. 211. *Yet it muſt be underſtood, that the honour, or barony, ſo created by the crown, or ſo delivered back again out of the hands of the king, was annexed to certain lands, which were compoſed of knights fees, and held of the crown by knight ſervice.*

That baronies in England, diſtinct from grand-ſerjeanties, were all *territorial* till long after the times of which I write, cannot be diſputed.

"But

" But (to uſe the words of Mr. Madox) " It is to be remembered, that " a city or town could not be the head of a barony. When a town " was part of a barony, it was only part of the demeſnes of a barony. " But if there was a caſtle there, the caſtle was uſually the head of the " barony. For example, the town of Richmond in Yorkſhire was part " of the demeſne of the honor of Richmond: but the caſtle was the *ca-* " *put honoris.*" V. Baronia, c. i. p. 17, 18.

To which I will add, that anciently Arundel Caſtle ſeems to have been the head of the barony annexed to the earldom of Suſſex; for which reaſon the earls of Suſſex were called earls of Arundel. Mr. Selden ſays, in his Titles of Honour, " But otherwiſe (ſaving in this " caſe where grand-ſerjeanty was alone reſerved) the baronies, as I con- " ceive, conſiſted of ſuch knights-fees as we have yet ſpoken of, but not " of any certain number of them. And the *chief ſeats* of the barons, in " any part of thoſe fees, were called *capita baronum.*" It was not there- fore neceſſary that the *head of a barony* ſhould be a caſtle; but, when there was a caſtle upon a barony, *that* was deemed *the head of it* in the common uſage of thoſe times. C. v. ſect. 17.

P. 212. *Beſides the military ſervice, which every baron was obliged to, in virtue of his fief, he was alſo bound to attend the king in his parliament and ſupreme court of juſtice, to aſſiſt in his judgements, and give him faithfull counſel in all matters concerning the dignity of his crown and the good of his realm.*

Lord Burleigh ſays, in one of his Letters, *that nobility was nothing elſe but ancient wealth in a family.* By this he meant that nobility was in ancient times *territorial*, and annext to the poſſeſſion of hereditary lands. Monſieur Voltaire, in his additions to his General Hiſtory, after obſerving that at Venice, and in the ancient republicks of Italy, *nobility* was attached to *dignity*, to *employment*, and not to *lands*, ſays, " *that every* " *where elſe nobility became the right of poſſeſſors of land.* The *Herren* in " Germany, the *Ricos Hombres* in Spain, the *Barons* in France and Eng- " land, *enjoyed an hereditary nobility, by no other right, than that their* " *lands, feudal or not feudal, remained in their families.*" P. 142.

On theſe paſſages it may be neceſſary to make ſome obſervations. It is undoubtedly true that in England, as well as other countries, the he- reditary poſſeſſion of *noble fiefs* gave nobility to families: but, I appre- hend, the reaſon of this diſtinction was, an obligation annext to thoſe lands, namely, *that the poſſeſſors of them were to fight for their country, at their own charges, and to adminiſter juſtice to the people.* For to thoſe honourable

honourable functions the idea of nobility might juſtly be attached; but not to the meer poſſeſſion of hereditary lands. Fiefs were divided into *noble* and *non noble*. A meer *ſocage tenure*, though hereditary, could not give nobility. Juſtice was adminiſtered to the people by all the poſſeſſors of *noble fiefs*, in the king's court, in the county and hundred courts, or in the court baron. Some hereditary offices, ſuch as ſhrievalties of particular counties, to which judicature was annexed, gave nobility to the families of thoſe who held them; and ſo, I preſume, did all offices held by the tenure of *grand ſerjeanty* in the king's court, or about his perſon. Many of theſe were neither military nor judicial: but they ennobled the poſſeſſors by a dignity derived from their relation to the crown and perſon of the king.

P. 214. *Robert earl of Mortagne, on whom he beſtowed the earldom of Cornwall, had, in that and other counties, ſeven hundred and thirty three manors.*

L. i. c. 1. p. 3. Mr. Madox obſerves, in his *Baronia*, "that there were in England "certain honours, which were often called by Norman, or other foreign "names, that is to ſay, ſometimes by the Engliſh, and ſometimes by "the foreign name. For example, *William de Forz*, *Deforce*, or *de "Fortibus*, was lord of the honour of Albemarle in Normandy. He "was alſo lord of two honours in England; to wit, the honour of "Skipton in Craven. Theſe honours in England were ſometimes cal-"led by the Norman name, the honour of Albemarle, or the honour of "the earl of Albemarle." I have quoted this paſſage to account to the reader for ſome ſuch titles which occur in this hiſtory.

P. 215. *for by the accounts in the Exchequer we find, that much leſs was taken by King Henry the Second for the ferms of other earldoms eſcheated to the crown.*

R. de Glenville, who fermed of King Henry the Second the great earldom of Richmond, was charged no more than four hundred and thirty three pounds ſeventeen ſhillings and three pence, for the manors of which the honour, or barony, was compoſed, and for the *third penny* of Gippeſwiz (the county court) and the ſervice of the *Drenges*, a ſpecies of tenants belonging to the manors. (See Madox, Baron. l. i. p. 72. Magn. Rot. 4. 2. Rot. 5. 6.

P. 215, 216. *But the Saxon earldoms were not hereditary: for, though they were ſometimes permitted to deſcend from father to ſon, it was not*

not by any right, or claim of inheritance, but only by the indulgence and favour of the king.

Even ſo late, as in the reign of Edward the Confeſſor, we find, that, upon the death of Siward earl of Northumberland, becauſe his ſon Waltheoff was then an infant, that earldom was given to Toſti, the ſon of Earl Godwin; and, on the death of Godwin, Algar, the ſon of Leofric earl of Cheſter, was inveſted with that earldom.

P. 216, 217. "*The form of girding them with a ſword, when they were inveſted with their earldoms, was likewiſe ſtrongly expreſſive of a military commiſſion appertaining to the office and dignity of an earl.*

An old Hiſtorian, cited by Mr. Selden, ſays, that when Sir Andrew Harcloy, earl of Carliſle in the reign of Edward the Second, was degraded for treaſon, "*the ſword which the king him gafe, to keep and de-*" *fend his land therewith, when he made him earl of Cardoil, was broke over* "*his head.*" This ſhews how long the opinion continued, that the defence of the county was committed to the earl with the ſword he received at his inveſtiture. The earl of Cheſter Hugh Lupus had that county from William the Conqueror given to him and his heirs, "Adeo "liberam *ad gladium*, ſicut ipſe rex totam tenebat Angliam ad coronam "ſuam," as Mr. Selden cites the words from an old author (Titles of Honour, Part II. c. v. ſect. 8.

Titles of Honour, Part II. c. v. ſect. 38.

P. 220. *It is a moſt remarkable thing, that all the charters now extant for the creation of earls (the moſt ancient of which were granted by Matilda) make no mention of any determined number of knights which the earls were bound to provide.*

Of theſe the firſt in date is the charter of creation to Geoffry de Magnavilla for the earldom of Eſſex, which was in theſe words: "Ego Ma-"tildis, filia Regis Henrici, et Anglorum domina, do et concedo Gaufre-"do de Magnavilla pro ſervitio ſuo, et hæredibus ſuis poſt eum hæredi-"tabiliter, ut ſit Comes de Eſſexiâ, et habeat tertium denarium Viceco-"mitatûs de Placitis, ſicut comes habere debet in comitatu ſuo: &c." The reſt relates to *other grants* which the empreſs made to the earl. Mr. Rymer, by miſtake, has publiſhed in his Fœdera another charter of Matilda, creating Milo Fitzwalter earl of Hereford, as the moſt ancient now extant. It runs in theſe words: "Sciatis me feciſſe Milonem de "Gloceſtriâ Comitem de Hereford, et dediſſe ei motam Hereford, cum "toto caſtello, in feodo et hæreditate ſibi et hæredibus ſuis ad tenendum "de me et hæredibus meis. Dedi etiam ei tertium denarium redditûs

T. I. p. 8.

" burgi Hereford quicquid unquam reddat, et tertium denarium placi-
" torum totius comitatûs Hereford."

The charter of Henry the Second to William de Albiney earl of Arundel is ſo particular as to be worth inſerting here. The words are theſe: " Henricus rex Angliæ, et dux Normanniæ, et comes Andega-
" viæ, archiepiſcopis, epiſcopis, &c. ſalutem. Sciatis me dediſſe Williel-
" mo Comiti *Arundel* caſtellum de *Arundel*, cum toto honore *Arundelli*,
" et cum omnibus pertinentiis ſuis, tenendum ſibi et hæredibus ſuis, de
" me et hæredibus meis, in feodo et hæreditate, et tertium denarium de
" placitis *de Suthſex, unde Comes eſt.*" This was not a charter of creation to an earldom, like that before recited: for William de Albiney is ſtyled in it *earl of Arundel*: but it gives or confirms to him the caſtle of Arundel with the honour (or barony) thereunto belonging, and all it's other appertenances, *together with the third penny of the county of Suſſex*, which is ſaid to be *his earldom*, though his title is taken from the caſtle. Note, that in this record the caſtle appears to be an appendix to the earldom, not the earldom to the caſtle.

See Selden's Titles of Honour, Part II. c. v. ſect. 10.

Mr. Selden obſerves, that this lord was ſometimes ſtyled earl of *Suſſex*, and ſometimes of *Chicheſter*, which denoted the ſame perſon. Yet he was more uſually called earl of Arundel, the reaſon of which I have given in another note to this book.

Ibid. *and as other baronies differed in the number of knights fees by which they were held, ſo likewiſe did theſe.*

For inſtance, it appears by records, that, during King Henry the Second's reign, the barony of the earl of Cornwall compriſed two hundred and fifteen knights fees, and a third part of a fee; that of the earl of Norfolk one hundred and twenty five fees; and that of the earl of Warwick one hundred and two fees and a fraction.

P. 220, 221. *We find in ſome charters, that the magiſtrates, or chief citizens, of London, York, Warwick, and other principal cities, were honoured with that title.*

In King Henry the Firſt's charter to the city of London it is ſaid, " Eccleſiæ et *barones* et cives teneant et habeant bene et in pace ſoc-
" nas ſuas cum omnibus conſuetudinibus, &c." " In which" (ſays Sir H. Spelman) " I underſtand *barones* pro civibus præſtantioribus qui
" ſocnas ſuas et conſuetudines, id eſt, curias habent et privilegia, eorum
" inſtar qui in comitatu *barones comitatûs* dicuntur, et *liberi tenentes*,
" quique de re feudali cognoſcebant in civitate, ut alii illi barones in co-
" mitatu."

Spelm. Gloſſ. BARONES DE LONDON.

" mitatu." He mentions alſo another charter, viz. that of H. III. de libertatibus London, which ſays, *Barones civitatis London eligant ſibi ſingulis annis de ſe ipſis majorem.* And a writ of H. I. addreſt, *Fulchero filio Walteri, et Euſtachio vicecomiti ſuo, et omnibus baronibus de London.* After which, he ſays, " Sic barones de Eboraco, de Ceſtriâ, de War-" wicâ, de Feverſham, et plurium villarum regiis privilegiis inſig-" nium &c."

Matthew Paris, ſpeaking in general of the Londoners, ſays, " Lon-" donienſes, quos, propter civitatis dignitatem, et civium antiquitatem, " *barones* conſuevimus appellare." Yet I hardly think the inferior citizens could ever be called barons, but only the magiſtrates, or thoſe in whom the power of the city reſided. In the poll tax of the firſt year of King Richard the Second, each of the *aldermen* of London was rated *as a baron*; the mayor of London as an earl; and all other mayors of great towns in England, each *as a baron.*

See the Parliamentary Hiſt. vol. i. p. 369.

P. 223. *Madox ſays, he (the conſtable) was a high officer both in war and peace, and obſerves that the word ſignifies a captain or commander.*

The author of the Dialogue de Scaccario uſes a ſtrange expreſſion in deſcribing this officer at the Exchequer. He ſays, that next to the chancellour ſat " *miles gregarius*, quem *conteſtabularium* dicimus." It is amazing that he ſhould call ſo high an officer *a common ſoldier*, eſpecially as he tells us in the ſame place, that the conſtable had the precedence of the king's chamberlains and his mareſchall, " *poſt tunc duo camerarii*, &c. " *poſt hos miles, qui vulgo dicitur mareſcallus*;" and (in another part of his book) that he could not eaſily be drawn from the king to attend the leſſer affairs of his office at the Exchequer, becauſe of greater and more urgent buſineſs; " *quia conteſtabularius a rege non facilè poteſt avelli propter majora et magis urgentia:*" (V. Dial. de Scaccario in fine Madox Hiſt. of the Excheq. l. i. p. 8 and 10.) Sir William Dugdale takes notice that he is ſtyled in ſome records *princeps militiæ domus regiæ.*

P. 226. *In it's firſt ſenſe it ſignified maſter of the horſe to the king.*

There were alſo inferiour mareſchalls in the king's ſtables and employed in the care of his hawks, &c. over all whom the great mareſchall preſided; and therefore his office was called in a charter of King John *magiſtratus mariſcalciæ.*

See Madox's Baronia, l. i. c. 6. p. 115, 116.

P. 230. *In the reign of Henry the Sixth John Baker held certain land in Kent of the king, by the ſervice of holding the king's head in the ſhip,*

which carried him in his paſſage between Dover and Whitſand. This was adjudged to be grand-ſerjeanty; *&c.*

Madox mentions a record of the reign of Edward the Second, by which it appears that Thomas de Warblynton held the manor of Shirefeld in Hampſhire of the king in chief, by the ſerjeanty of being *mareſchall of the whores in the king's houſehold, and of diſmembring malefactors condemned, and of meaſuring the galons and buſhels in the king's houſehold.* But he very improperly places this tenure among the *grand-ſerjeanties*, which the record does not warrant. The words are: "*Per ſerjentiam eſſendi* "*mareſcallus de meretricibus in hoſpitio regis, et diſmembrare malefactores* "*adjudicatos, et menſurare galones et buſſellos in hoſpitio regis.*" Certainly Sir H. Spelman would not have called this *the higheſt and moſt illuſtrious feudal ſervice*, as he deſcribes *grand-ſerjeanty*. It was a *petty ſerjeanty* of the meaneſt and moſt diſhonourable nature. The record traces it up as high as to the reign of King Henry the Second.

P. 237. *and other examples occur of the ſame power being exerciſed, for ſeveral ages, by private perſons in England, without the authority of a royal commiſſion.*

I do not mean that it was ſo exerciſed for ſeveral ages *after the times of which I write*, but in thoſe times, and before. Mr. Selden ſays, "the "perſons that gave this dignity *anciently* were ſometimes ſubjects (and "theſe gave it without any ſuperiour authority granted to them) as well "as ſovereigns. Though *long ſince* it hath grown to be clear, none gives "it with us but the ſovereign, or ſome other by his command or com-"miſſion." It appears that the liberty of receiving it from a ſubject, uncommiſſioned by the king, was ſooner taken from the king's immediate tenants in chief, than from others. Mr. Selden mentions a writ of the twenty ninth of Henry the Third, in which thoſe of the ſecond kind (that is, ſuch as held military fees of ſubjects) were to be diſtrained, *quod tunc ſint ibi parati ad recipiendum arma de quibuſcunque voluerint.* In which form the writs went to all the ſubjects of England. He likewiſe cites writs of ſummons or *diſtringas* from the cloſe rolls of the forty fourth of Henry the Third, of the ſixth of Edward the Firſt, and of the ſixth of Edward the Second, in which a diſtinction is made, that ſome were to come and receive knighthood from the king; and others, *being not tenants to the king*, ſhould be ſummoned or diſtrained *ad ſe milites faciendos*, or, *ad arma ſuſcipienda.*

Titles of Honour, part ii. c. v. ſect. 33.

Ibid.

Ibid. *Nay, our kings themſelves have been knighted by the hands of their ſubjects, as Henry the Sixth by the duke of Bedford's, and Edward the Sixth by the duke of Somerſet's.*

In France, the great reſtorer and patron of chivalry, Francis the Firſt, choſe to receive the order of knighthood from his ſubject, Monſieur Bayard, illuſtrious only by his valour and a conduct without reproach. Mr. Selden quotes a paſſage from M. Paris, in which it is ſaid, that, in the year 1252, Alexander the Third, king of Scotland, having been knighted by Henry the Third, king of England, the Earl Mareſchall demanded the king of Scotland's horſe and accoutrements, as a fee due to him by ancient cuſtom: but that prince anſwered, that he conceived no ſuch fee could be due to the Earl Mareſchall from him, *becauſe, at his own pleaſure, he might have received his knighthood, either from any other catholick prince, or from any of his own nobles.* Mr. Selden by *nobles* underſtands *gentlemen*, and I, believe, very rightly.

Titles of Honour, part ii. c. v. ſect. 34.

P. 238. *The poet Gunther, who was contemporary with Henry the Second, ſays, in a Latin poem, that the Emperour Frederick Barbaroſſa, the better to repel the enemy from his borders, and defend his country by the ſuperior force of his arms, granted knighthood to many perſons of low and vulgar birth, which in France would have been thought a ſtain to that dignity.*

By ſome old laws of France, if any man, who was not a gentleman by his father (though he was ſo by his mother) had been made a knight, his lord might degrade him by cutting off his ſpurs on a dunghill. Du Cange aſſerts, that it was neceſſary for a perſon, who aſpired to the order of knighthood, to prove, that not only his father and mother, but his grandfather and grandmother, were nobly born: which Father Daniel confirms, but obſerves that in France and other countries, this rule in time was relaxed, and that the French kings diſpenſed with it on many occaſions.

See Selden's Titles of Honour, part ii. c. iii. ſect. 24.

V. Du Cange Diſſertat. x. ſur l'Hiſtoire de St. Louis.

V. Hiſt. de la Milice Françoiſe, t. i. l. iii. c. 4.

Ibid. *And in the nineteenth year of the ſame king (Henry the Third) all the ſheriffs of England were commanded to make proclamation in their reſpective counties, that all who held of the king in chief one knight's-fee or more, and were not yet knighted, ſhould take arms and get themſelves knighted before the next Chriſtmas, as they loved the tenements, or fees, which they held of the king."*

It ſeems that this injunction was afterwards thought too hard on the poorer knights. For it was declared by act of parliament in the firſt

year of King Edward the Second, " that none ſhould be forced to take " upon them the order and arms of a knight who had not twenty pounds " yearly in fee, or for term of life; or before they came to the age of " one and twenty years. And ſuch as had holden their lands but a ſmall " time, or alledged great age or default of their members, or any other " incurable diſeaſe, or charge of their children, or ſuits, or any other " ſuch neceſſary excuſes, were only to pay a reaſonable fine." But it muſt be obſerved, that this act does not confine the obligation of receiving knighthood to tenants in chief of the crown. Breton, who wrote about the time of Edward the Firſt, ſays, that a lord could not legally compel his tenant to give him the aid due by tenure for making his ſon a knight, if he was not a knight himſelf.

See Breton c. des priſes des avoirs. Selden's Titles of Honour, part ii. c. v. ſect. 36.

P. 238, 239. *Whether, in the times that I write of, any compulſion was uſed to oblige men to be knighted I cannot poſitively affirm: but, as Mr. Madox, in his Hiſtory of the Exchequer, has given no records of any fines having been levied on that account, or proclamations iſſued to injoin it, till the reign of Henry the Third, and many in and after that reign, the preſumption is ſtrong, that it had not been the practice before the death of King John.*

See his Britannia, States and Degrees of England.

Camden dates this compulſion from the reign of Henry the Third, and obſerves, that from that time *it ſeemed a title of burthen rather than of honour.* Indeed we may reckon a practice, ſo contrary to the ſpirit and policy of knighthood, among the bad methods made uſe of, by the rapacious miniſters of that king, to draw money from the ſubject.

P. 240. *Every knight had his lady, to whom he vowed faithful ſervice, whoſe favours he wore in tournaments and in battles, and for whoſe honour he was always prepared to combat, with no leſs zeal and enthuſiaſm, than for the defence of the catholick religion itſelf.*

Even in the reign of Queen Elizabeth, a challenge was ſent by the earl of Eſſex, to the count de Brancas Villars, who was governour of Rouen, then beſieged by king Henry the Fourth of France and his Engliſh confederates under the command of that earl, in which he offered to maintain, among other points, *that he had a more beautiful miſtreſs than Villars.* It muſt however be obſerved, that, in doing this, he ſhewed himſelf, not only *a good knight*, but *a good courtier:* for he knew the queen would think, that *ſhe* was the *miſtreſs* of whoſe beauty he propoſed to be the champion. This, and ſome other ſimilar paſſages of that reign, ſhew us the reaſon why Spenſer, who was a man of good ſenſe, as well as a fine

poet, thought he could not make his court more agreeably to his ſovereign, who loved the notions of romantick gallantry and honour, than by repreſenting her, in his *Fairy Queen*, as the patroneſs of the moſt ſublime chivalry, and as ſending forth the moral virtues, illuſtrated under the characters of different knights, to free the world from vice and oppreſſion, and to merit her favour by heroick actions. In this light the *Fairy Queen* is as much a ſtate poem, as the *Æneis* of Virgil.

P. 243, 244. *The ranſoms paid to knights for the priſoners they took, and the ſhare aſſigned to them, by cuſtom, of all the booty and ſpoils that were gained from an enemy, furniſhed them with ample means of advancing their fortunes: but they had moreover rich preſents made to them by the princes or nobles they ſerved, upon the performance of any eminent feats of valour.*

After the battle of Poictiers the Engliſh ſaid, *that they would not ſet ſo high a price upon a knight or gentleman, but that he might ſtill be able to live according to his rank, and to follow the wars in an equipage agreeable to his quality.* This is mentioned by Froiſſard as an act of generous courteſy. Mr. Selden ſays, that, by the law of arms, thoſe captives whoſe ranſom came to above 10,000 crowns, belonged to the king. Barnes tells us, after Froiſſard, that by their victory at Poictiers all the prince's men were *enriched*, as well by ranſoming, as by the ſpoil they found there, conſiſting of gold, ſilver, plate, and jewels, beſides horſes, armour, and what they found about the dead. At the end of the action the prince embraced the Lord Audley, and ſaid to him, *Sir James, both I myſelf and all others acknowledge you, in the buſineſs of this day, to have been the beſt doer in arms. Wherefore, with intent to furniſh you the better to purſue the wars, I retain you for ever to be my knight, with five hundred marks yearly revenues, which I ſhall aſſign you out of my inheritance in England.* Five hundred marks *per annum* in thoſe days was a very noble eſtate. But the generous knight, though much pleaſed with the honour of the gift, divided it all among his four eſquires, who had ſerved him well in the battle. When the prince knew this, he confirmed the grant to them, and ſettled on him a further penſion of *ſix hundred marks*, which was confirmed to him by the king for the term of his life, and for a twelvemonth after, to be received out of the coynage of the ſtannaries in Cornwall, and the prince's lands in that county. Many more inſtances might be given, to ſhew the profits that knights might gain by their chivalry, when theſe inſtitutions were in force. The trade of war ſeems at preſent

ſent to be more gainful to the general, but much leſs to the officers, or private ſoldiers of an army, than it was in thoſe days.

P. 245. *Indeed it never quite ſunk, till the ſpirit of chivalry began to grow out of faſhion, and was even rendered the object of ridicule.*

The fear of this conſequence made the duke d'Alva ſay, *that Don Quixote would ruin Spain*; though, in truth, the ridicule of that ingenious book is not pointed againſt the ſpirit of chivalry, but againſt the abſurd repreſentation of it in the Spaniſh romances.

P. 246. *I will add, that the two laſt, who appear to have faſhioned themſelves upon the ſame model, and to have poſſeſſed in perfection all the virtues of their order, were, in France, the* Chevalier Bayard, *and, in England,* Sir Philip Sidney.

In valour, courteſy, generoſity, and a high and noble ſenſe of honour, the peculiar virtues of chivalry, theſe two knights may be well compared together; but Sir Philip Sidney's character, upon the whole, is much ſuperior to Bayard's, becauſe he not only excelled in wit and learning, but was alſo endowed with great talents and abilities for ſtate affairs, as we know from the teſtimony of the greateſt ſtateſman of that age, William prince of Orange, who ſent this meſſage to Queen Elizabeth by Sir Fulk Greville, "*that (in his judgement) her majeſty had one of the ripeſt and greateſt counſellours of ſtate in Sir Philip Sidney that then lived in Europe*, to the "trial of which he was pleaſed to leave *his own credit* engaged, until her "majeſty might pleaſe to employ this gentleman either amongſt her "friends or enemies."

See Sir F. Greville, Lord Brook's Life of Sir P. Sidney, c. ii. p. 31.

The *credit* of the prince of Orange wants no ſupport; but I will add, from the ſame author, Sir Fulk Greville, the teſtimony of the earl of Leiceſter, who ſaid to Sir Fulk, "that when he undertook the govern-"ment of the Low-countries he carried his nephew (Sir Philip Sidney) "over, with him, as one amongſt the reſt; not only deſpiſing his youth "for a counſellour, but withall bearing a hand over him as a forward "young man. Notwithſtanding, in ſhort time *he ſaw this ſun ſo riſen "above his horiſon, that both he and all his ſtars were glad to fetch light "from him.* And in the end acknowledged, *that he held up the honour of "his caſual authority by him whilſt he lived, and found reaſon to withdraw "himſelf from that burthen after his death.*" But leſt this praiſe might he ſuſpected, as coming from a relation, Sir Fulk ſays further: "In what "extraordinary eſtimation his worth was, even amongſt enemies, will ap-"pear by his death; when Mendoza, *a ſecretary of many treaſons againſt*

P. 34.

C. iii. p. 3.

" *us*, acknowledged openly, *that, howſoever he was glad King Philip,*
" *his maſter, had loſt in a private gentleman a dangerous enemy to his ſtate;*
" *yet he could not but lament to ſee Chriſtendom deprived of ſo rare a light in*
" *theſe cloudy times, and bewail poor Widow England (ſo he termed her)*
" *that, having been many years in breeding one eminent ſpirit, was in a*
" *moment bereaved of him by the hands of a villain*" (or *low common ſoldier*; for that is the meaning of the word *villain* in this place).

We may therefore conclude, that, in the faculties of his mind, Sir Philip Sidney roſe above the higheſt pitch of knightly accompliſhments, and was not only *un Chevalier ſans peur et ſans reproche*, but fit for the greateſt offices of ſtate and government. It ſeems indeed no leſs diſhonourable to the memory of Queen Elizabeth, that ſhe ſhould have let ſuch a ſpirit and ſuch talents as his remain ſo long unemployed, than that ſhe ſhould have truſted ſo much of her moſt arduous buſineſs to her unworthy favourite the earl of Leiceſter! As for the Chevalier Bayard, he does not appear to have had any extraordinary parts, or to have been rankt among the *ſtateſmen* of the times in which he lived: nor had he any ſuperior degree of knowledge, to diſtinguiſh him much from the ignorant nobility of his country: whereas Sir Philip had acquired ſuch a reputation for ſcience and taſte in the fine arts, that (to uſe the words of the abovementioned author) " *the univerſities abroad and at home accounted*
" *him a general Mæcenas of learning; dedicated their books to him, and com-*
" *municated every invention or improvement of knowledge with him. There*
" *was not a cunning painter, a ſkilful engineer, an excellent muſician, or any*
" *other artificer of extraordinary fame, that made not himſelf known to this*
" *famous ſpirit and found him his true friend without hire, and the common*
" *rendevous of worth in his time.*" Since I wrote this, the publick has been entertained with the life of a very extraordinary man, the Lord Herbert of Cherburg, written by himſelf, from which he appears to have been as ſtrongly poſſeſſed with the high ſpirit of chivalry as Sir Philip Sidney, and was alſo a man of parts and learning. But he ſeems to have had weakneſſes and defects in his character, ariſing chiefly from vanity, which are not to be found in Sidney, none of whoſe actions were improper, and much leſs were they ridiculous. Yet it muſt be owned, if theſe gentlemen are compared as *writers*, that Lord Herbert's Hiſtory of King Henry the Eighth is ſuperior upon the whole to any work of Sir Philip Sidney.

P. 247. *Whether, in the times of which I write, we had any* knights bannerets *is not very clear. The name does not occur in our hiſtories or records before the reign of Edward the Firſt.*

Mr.

Hiſtory of the Exchequer, p. 614. note 1.

Mr. Madox has cited a roll of the twenty fifth year of that king, in which they are mentioned, together with *knights bachilers*, which latter denomination was relative to the former, ſignifying knights of an inferior rank to the bannerets. But *milites vexilliferi* are mentioned by Matthew Paris before that time, and one can hardly doubt that theſe words are a Latin tranſlation of knights bannerets. Father Daniel ſays, in his Treatiſe on the Militia of France, that he can find no mention of them in any hiſtorian before the reign of Philip Auguſtus. But he obſerves, that the writers of that time do not ſpeak of them as a novelty; and therefore he ſuppoſes, that this inſtitution commenced when the regulations for tournaments and other matters of chivalry were made in France. We probably received it from thence: but under what reign is uncertain. Mr. Camden erred much in ſuppoſing it ſo late as Edward the Third's. (See his Account of Degrees of States in England, prefixed to his Britannia.)

Ibid. *In reality this was not a new order of knighthood, but only a higher rank, conferred by the ſovereign, or by the general of a royal army, on ſome of that order, who were richer than others, and were followed into the field by a greater number of vaſſals.*

Titles of Honour, part ii. c. v.

It appears by a record, which Selden has cited on this ſubject, that in Edward the Second's reign the pay of a banneret was four ſhillings a day, the pay of each of the knights, who ſerved under his banner, two ſhillings, and of each eſquire one ſhilling. In the great roll of the ſixteenth of Edward the Third, the ſame ſums are allowed by the king to a banneret, for his own pay, and for that of three knights and thirty-ſix men at arms. Camden cites a charter of the ſame king, by which he advanced Sir John Coupland to the ſtate of a banneret, becauſe, in a battle fought at Durham, he had taken priſoner the king of Scotland, and it runs in theſe words: "Being willing to reward the ſaid John, "who took David de Bruce priſoner, and frankly delivered him unto us, "for the deſerts of his honeſt and valiant ſervice, in ſuch ſort as others "may take example by this precedent to do us faithful ſervice in time to "come; we have promoted the ſaid John to the ſtate and degree of a "a banneret: and for the maintenance of the ſame ſtate we have granted "for us and our heirs to the ſame John five hundred pounds by the "year, to be received for him and his heirs, &c."

See Madox's Baronia, p. 160.

V. Britannia, p. 171. old edition.

Here we ſee that the means of maintaining the dignity was a grant from the crown made after the promotion: but generally the knight ſo promoted was qualified with a ſufficient eſtate before his advancement.

Mr.

Mr. Selden quotes an ancient book, to ſhew, that, in France, it was required that a banneret ſhould have a ſufficient eſtate to maintain fifty gentlemen to accompany his banner. (Titles of Honour, part ii. c. iii. ſect. 23.) But another, which he alſo cites, informs us, that, in Burgundy, it was enough if he was attended with twenty five. From the grant having been made to Coupland *and his heirs*, and from the mention of *inheritance* in the ſpeech of Sir John Chandos to the *Black Prince*, which I have recited in this book, one ſhould think that the dignity of banneret was hereditary: but Mr. Selden affirms it never was ſo in England. The difficulty may perhaps be ſolved in this manner. The honour of knighthood was perſonal, and never deſcended to the heir of a knight without a new creation: but when the heir of a banneret was made a knight, he was entitled to the ſtate and degree of a banneret by right of inheritance. Thus it appears by a writ, that, under Richard the Second, Thomas Camoys was a banneret, *as many of his anceſtors had been before him*; and for that reaſon he was diſcharged from being knight of the ſhire for the county of Surrey. "Rex Vicecomiti Surriæ ſalutem: "Quia, ut accepimus, tu Thomam Camoys Chivaler, qui bannerettus eſt, "*ſicut quamplures anteceſſorum ſuorum extiterint*, ad eſſendum unum mili- "tum venientium ad proximum parlamentum noſtrum pro commu- "nitate comitatus prædicti, de aſſenſu ejuſdem comitatus, elegiſti; nos "advertentes quod hujuſmodi banneretti, ante hæc tempora, ratione ali- "cujus parlamenti eligi minimè conſueverunt, ipſum de officio militis, "ad dictum parlamentum pro communitate comitatûs prædicti venturi, "exonerari volumus." But there is much obſcurity in this matter. For Mr. Selden ſhews, that this Thomas Camoys was a baron and a peer of that parliament, and that many of his anceſtors had likewiſe been peers. (Titles of Honour, part ii. c. v. ſect. 25.) It is therefore equally ſtrange that he ſhould have been elected knight of the ſhire, or diſcharged from that ſervice as a *banneret*, and not as a baron. Mr. Selden indeed obſerves, that the name of *banneret* is given to ſome temporal barons, as if in them it were equivalent and ſynonymous to *baron*. In the firſt of Richard the Second divers earls and barons are mentioned by name in the parliament roll, "*et pluſieurs autres ſeigneurs barons et* "*bannerets etans au dit parlement aſſembles.*" But this was after the introduction of barons by writ. The ſame learned writer ſhews, that in France the form of making bannerets was by cutting off the point or end of the *pennon* or ſtreamer, and ſo altering the ſhape of it into a ſquare banner. But it does not appear that this ceremony was uſed in making Sr. John Chandos a banneret, as is related in this book,

Titles of Honour, c. v.

Ibidem, c. iii. ſect. 23.

V. Hiſt. de la Milice Françoiſe, l. iii. c. v. t. i.

p. 247. Father Daniel ſays, that in France the eldeſt ſons of bannerets, before they were knighted, were of inferior rank to knights bachilers, and ſerved under their pay, being called *Eſquires Bannerets*: but when they had received the order of knighthood with the uſual ceremonies, they had a right of advancing their banners after the death of their fathers, and ſo the dignity of banneret may be ſaid to have been patrimonial and feudal.

P. 248. *This alternative was, I preſume, the real motive, that induced them to be guilty of ſuch a glaring abſurdity, as to inflict theſe penances upon ſoldiers, for killing or ſtriking their enemies in the perſecution of a war, which they themſelves admitted to be lawful*; &c.

In one of the ſubſequent canons three years penance is injoined *by the mercy of the biſhops*, to the Normans who fought at Haſtings, inſtead of one year for every man they knew they had ſlain in that battle, and forty days for every man they knew they had ſtruck. "Sed "qui in *publico bello* pugnaverunt, *pro miſericordia* tres annos pœniten- "tiæ eis epiſcopi ſtatuerunt." *Publico bello* here ſignifies the war againſt Harold, and particularly the battle of Haſtings, which in one of the former canons is called *magno prælio*; and mentioned in another by theſe words, *excepto hoc prælio ante regis conſecrationem.* The ſixth Canon, of which notice is taken a little lower in the page here referred to, runs in the following words: "Qui autem tantum præmio adducti "pugnaverunt, cognoſcant ſe tanquam pro *homicidio* pœnitere debere." I have followed the learned Mr. Johnſon in tranſlating *homicidium* murder, becauſe it is generally ſo uſed by the writers of that age.

V Spelman's Councils, v. ii. Can. i. Ibidem, c. ix.

P. 251, 252. *Yet in Domeſday-book they are diſtinguiſhed from other free tenants, called there* liberi homines, *by not having the power, which theſe enjoyed, of giving away, or ſelling, their eſtates, without leave of their lords. It ſeems that theſe* liberi homines *were a remainder of the* alodial *tenants of the Saxon* folkland, *that is, land of the vulgar, oppoſed to* bocland, *or* thaneland. *A certain number of them was neceſſary to conſtitute a manor; and therefore, when that number was incomplete, ſome who held in villenage were enfranchiſed, to make it up; as appears by the teſtimony of the record abovementioned. We alſo find there, that ſome who were in poſſeſſion of this* alodial freedom *thought it more eligible to ſeek a defence and protection, by recommending themſelves to the* patronage *of ſome feudal lord, or even of two lords, if the ſituation of their lands made it neceſſary for them to have two protectors. The ſervices which*

were

were performed by them to the lord of the manor, in their alodial ſtate, were predial and ruſtick. A certain number of free ſocmen, *as well as of theſe, appears to have been neceſſary to every lord of a manor, for holding the pleas of the manor court,* &c.

I will give ſome proofs of all theſe ſeveral aſſertions. In the leſſer Domeſday-book frequent mention is made of the *liberi homines* in theſe terms: "Iſte *liber homo* fuit; *ſuus homo* fuit; *potuit vertere ſe quo voluit*; "*potuit terram ſuam vendere vel dare, potuit recedere ſine licentiâ domini.*" All theſe expreſſions denote *an alodial tenure*; the *feudal tenants* being more cloſely bound to their lords, and not having ſuch liberty.

In the manor of Simpling in Norfolk it is ſaid, "Quatuor liberi homines "*liberati fuere ad hoc manerium perficiendum.*" Before theſe men were *liberati*, enfranchiſed, they muſt have been in vilenage, ſlaves, or bondmen.

In the leſſer Domeſday-book mention is made of *liberi homines commendati, dimidii commendati*, and even *dimidii ſubcommendati*. The nature of this *commendatio* is thus explained: "*Liber homo* hanc terram "tenebat, et quo vellet abire valebat: *ſummiſit ſe in manu Walteri de* "*Dowai, pro defenſione ſui.*"

It appears by the Survey, that in Gloceſterſhire there were *liberi homines* in the time of Edward the Confeſſor called *Radecheniſters*, and that they ploughed, harrowed, and ſowed the demeſne lands for their lords.

See Domeſday-book, f. 18. Tit. Glowc. Bercheley et Derhurſt. Spelman's Gloſſ. RADECHENISTER.

That a certain number of *free ſocmen*, as well as of theſe, were neceſſary to a manor, may be proved from this paſſage in the ſurvey, "Tres iſtorum "ſocmannorum *accommodavit* Riotus Roger Comiti, *propter placita ſua* "*tenenda.*" I need not obſerve, that none but freemen could *hold pleas.*

P. 253. *In Domeſday-book, that great record of the ancient ſtate of this kingdom, a diſtinction is made between* villeins, *who were affixed to a manor, and others of ſtill a lower and more ſervile condition, diſtinguiſhed by the names of* bordarii, cotarii, *and* ſervi; &c.

In a note to one of the laws of William the Conqueror, tranſcribed in the Appendix to the firſt volume of this Hiſtory, I have obſerved, that ſometimes the word *villanus* ſignifies not a *ſlave*, but a *farmer, inhabiting a village*, which is the firſt ſenſe of the word, and in which it muſt be taken, where perſons called by that name ſeem to be equalled with *burgeſſes*. But, in Glanville and other law books, *villanus* or *villein* was a man *regardant to a manor*, ſo as to go along with it whenever it changed it's maſter, and in ſuch abſolute ſervitude, that his perſon, children, and goods belonged to his maſter. Indeed Judge Lyttelton ſays, "that if a man is ſeized of a manor, to which a villein is regardant, "and

See Appendix to the firſt volume, p. 529, 530. N. 111. De relevio villani. See alſo the Saxon laws. See the Statute of Merton. Glanville, l. 5. Coke's Inſtit. vol. i. l. ii. c. 11.

"and granteth the ſame villein by his deed to another, then he is a "villein *in groſs*, and not *regardant*." But this alteration of the name made none in his ſtate, with reſpect either to the liberty of his perſon and family, or the property of his goods.

P. 254, 255. *Yet in other places he gives the appellation of bondmen to all below the degree of* ceorls *or* free ſocmen.

See his treatiſe on Feuds and Tenures, c. v.

This learned author (Sir H. Spelman) deſcribes the *ceorles* "as "huſbandmen, who lived upon the *outlands* of the Saxon *thanes*, and "were cuſtomary tenants at the will of their lords, rendering unto them "a certain portion of victuals, and things neceſſary for hoſpitality. This "rent, or retribution, they called *feorme*, from whence we derive the "name of farm and farmers. *But this ſervice was no bondage.* For the "*ceorl*, or huſbandman, might as well leave his land at his will, as the "lord might put him from it at his will; and therefore it was provided, "by the laws of Ina, in what manner he ſhould leave the land, when "he departed from it to another place. And the writ of waſte in Fitſ-"herbert ſeemeth to ſhew, that they might depart, if they were not well "uſed."

Theſe *ceorls* have been often confounded with ſlaves and bondmen, under an inaccurate uſe of the word *villani*, and ſo have other free inhabitants of *villages* in thoſe days. The *free ſocmen* were of an order ſuperior to theſe; and many of them, in the times of which I write, poſſeſſed *hereditary* eſtates of a ſtrict feudal nature, which therefore they could not leave *at pleaſure*, without the conſent of their lords; but which they could not be put out of, without a legal forfeiture. The account given of the *ceorles*, in the paſſages above-cited, ſeems to agree with what is ſaid in Domeſday-book of the *liberi homines*, or *alodial* tenants, at the time when that record was compiled. But ſome of theſe may have been of a higher rank and degree, according to the extent of the lands or farms they poſſeſſed. Bracton takes notice of a ſpecies of tenure in the demeſne lands of the king called *villein ſocage*. Thoſe who held by this tenure were *glebæ aſcriptitii*, affixed to the land, and performed *villein ſervices*, but *certain and determined*. Their privilege was, that, while they would and could perform theſe ſervices, they could not be turned out. Nor could they be compelled againſt their will to hold ſuch tenements: for which reaſon they were called *free*. Yet they could not diſpoſe of their tenements, nor transfer them to others by way of gift, no more than *mere villeins*; but, if they removed, they delivered up their tenements to their lord, or his bailiff, who gave them to others to be held

L. iv. p. 209.

in

in villenage. Bracton diſtinguiſhes theſe *villein ſocmen*, from thoſe who held of the king in *free ſocage*; and from ſome whom he calls *adventitii*, who held by *covenant* in the ſame manner as *villein ſocmen*, but had not the ſame privilege.

P. 254, 255. *Nay, we are told by Glanville, that, in his time, if a freeman married a woman born in villenage, and who actually lived in that ſtate, he loſt thereby the benefit of the law (that is, all the legal rights of a freeman) and was conſidered as a villein by birth, during the life-time of his wife, on account of her villenage.*

Bracton ſays, that a child begotten by a freeman, whether in marriage or not, upon a woman born in villenage, *and living in that condition*, was born a ſlave: but, if the woman was *out of the power of her lord*, though born in ſervitude, and was *married to a freeman*, the iſſue of that *free bed* would be *free*. This explains what is ſaid more indiſtinctly by Glanville. L. i. p. 5.

I dwell on theſe circumſtances as they make a very curious part of the hiſtory of thoſe times, and (God be thanked) are little known at preſent to my countrymen.

P. 255. *But he ſays, that no villein could acquire his freedom with his own money: for, notwithſtanding his purchaſe, he might, according to the law and cuſtoms of the kingdom, be brought back into villenage: becauſe all the goods of a villein born belonged to his lord*; &c.

Sir Thomas Lyttelton ſays, "that no land holden in villenage or "villein land, nor any cuſtom ariſing out of the land, ſhall ever make a "freeman villein; but a villein may make free land to be villein land to "his lord. And where a villein purchaſeth land in fee ſimple, or in fee "tail, the lord of the villein may enter into the land, and ouſt the vil-"lein and his heirs for ever. And after, the lord, if he will, may let "the ſame land to the villein to hold in villenage." I would obſerve, that neither here, nor in any other part of this author's book relating to villenage, is any diſtinction made by him between *villeins*, and *ſervi nativi*, or *bondmen*; but he uſes the former word as comprehending all thoſe, whoſe perſons, children, and goods, were the property of their lords, whether they held lands or no; which ſhews that in his time the legal ſenſe of the term *villein* was the ſame as in Glanville's, and that the ſervitude of thoſe who were in that ſtate continued unaltered, though he ſpeaks of it as a *tenure* when lands were held by the villein; and mentions alſo *villein ſervice*, "as to carry or recarry the dung of his "lord L. ii. c. 11. ſect. 172.

" lord out of the city, or out of his lord's manor unto the land of his " lord, and to ſpread the ſame upon the land, and ſuch like." Bracton alſo ſpeaks of ſlaves who *held in villenage* of their lord, and uſes the Latin words *villanus* and *ſervus* as ſynonymous terms. He likewiſe puts a caſe, of a lord giving his ſlave land to be held *by free ſervice*, without having infranchiſed him; and ſays, " that ſuch a gift or grant does not " alter the ſervile ſtate of the tenant, becauſe a tenure in villenage does " not take away any liberty from a free perſon, nor does a freehold con- " fer liberty upon a villein. But if, without *manumiſſion*, a lord gives a " freehold to be held by the ſlave *and his heirs*, it might be preſumed " that he meant to infranchiſe him; becauſe a ſlave could have no heirs " without being infranchiſed."

L. iv. p. 190. 192.

Ibidem.

P. 258. *but yet, as in Lyttelton's Tenures, which were written during the reign of King Edward the Fourth, there is a whole book concerning the ſtate of perſons in ſervitude, it is evident that many ſuch were ſtill remaining in thoſe days.*

Many ſlaves were enfranchiſed in conſequence of the rebellion headed by Wat Tyler and Jack Straw, in the fourth year of the reign of King Richard the Second. But the next year the king complained to his parliament, that he had been forced to grant charters of liberty and manumiſſion, under the great ſeal of England, to the rebels, who were only bond-tenants and villeins of the realm: which knowing to be done againſt law, he deſired them to ſeek remedy, and provide for the confirmation or revocation thereof. Whereupon the lords and commons unanimouſly reſolved, *that all grants of liberties and manumiſſion, to the ſaid villeins and bond-tenants, obtained by force, were in diſheriſon of them, the lords and commons, and deſtruction of the realm; and therefore to be nulled and made void by authority of parliament.* Nevertheleſs it is probable, that the apprehenſions of ſuch another inſurrection had no ſmall effect to incline the lords of manors, both to treat their ſlaves better, and to leſſen the number of them, from this time forwards. But the progreſs of this diſpoſition was gradual and ſlow, as all ſuch changes muſt be.

See Parliamentary Hiſt. p. 386, 387. vol. i.

P. 274. *If we look to the beſt accounts of the original cuſtoms of the ancient German nations, we ſhall find, that, in their communities, all the freeholders enjoyed an equal right with the nobles, to aſſiſt in deliberations* on affairs of great moment.

Tacitus

Tacitus ſays, that in Germany (under which name, in his time, were comprehended all thoſe countries from whence the Saxons and Angli originally came) "de *minoribus* rebus *principes* conſultant, de *majoribus* "*omnes*; ita tamen, ut ea quoque, quorum apud *plebem* arbitrium eſt, apud "*principes* pertractentur." By the word *plebem* here uſed, we muſt underſtand *the inferior orders of freemen:* for the ſame author ſays, that even the *liberti* were of no account in their commonwealth. "Liberti "non multum ſuprà ſervos ſunt, raro aliquod momentum in domo, *nun-* "*quam in civitate*" &c. And the ſenſe of the word here is further explained by a paſſage in Cæſar's Commentaries concerning the Germans. He ſays, "Neque quiſquam agri modum certum, aut fines proprios ha- "bet; ſed magiſtratus ac principes, in annos ſingulos, gentibus, cogna- "nationibuſque hominum qui unà coierunt, quantum eis et quo loco "viſum eſt, attribuunt agri, at anno poſt alio tranſire cogant, cujus rei "multas afferunt cauſas" &c. one of which is, "ut animi æquitate *plebem* "contineat, quum ſuas quiſque opes cum potentiſſimis æquari videat." In this place it is evident, that *plebem* ſignifies thoſe who had a ſhare in the annual diſtribution of lands, and conſequently were freemen, but of the inferior orders. And that *all thoſe*, by the German cuſtoms, concurred with the nobles in conſulting upon and determining affairs of *great moment*, appears undeniably from the paſſage of Tacitus above-cited.

V. Cluver German. Antiq. l. i. p. 94. c. 11. Sheringham, p. 77.

Tacitus de moribus Germ. c. 25.

P. 257. *We are aſſured, by a record which Dr. Brady has cited, that, ſo late as in the fifteenth year of King John, not only the greater barons, but all the inferior tenants in chief of the crown, had a right to be ſummoned to parliament by particular writs.*

The words are theſe: "Rex Baronibus, *militibus* et *omnibus fidelibus* "totius Angliæ ſalutem &c. *Unicuique veſtrum*, ſi fieri poteſt, *literas* "*noſtras ſuper hæc tranſmiſſemus*; ſed ut negotium illud, quod et nobis et "vobis ad commodum cedat et honorem, cum *majori expediretur feſtina-* "*tione, has literas*," &c.

V. Rot. Pat. 15 Johan. p. 2. m. 2.

Mr. Selden has given us, in his Titles of Honour, another writ of ſummons ſent the ſame year, viz. the fifteenth of King John. The words of it are: "Rex Vicecomiti Oxon. ſalut. Præcipimus tibi quod "omnes *milites* ballivæ tuæ, qui ſummoniti fuerunt eſſe apud Oxoniam "ad nos a die omnium ſanctorum in xv dies, venire facias *cum armis* "*ſuis; corpora vero baronum ſine armis ſingulariter*, et IV *diſcretos* "*milites de comitatu tuo* illuc venire facias ad nos ad eundem terminum; "*ad loquendum nobiſcum de negotiis regni noſtri.* Teſte meipſo apud "Wilton XI die Novembris."

See Seldon's Titles of Honour, laſt edition, part ii. p. 738.

Eodem modo ſcribitur omnes vicecomitibus.

Mr. Selden calls this *a ſtrange writ of ſummons*, and ſays, that, for ought he has ſeen, *it is without example*. So ſtrange indeed it is, that I am unable to underſtand what it means. If the *quatuor diſcreti milites*, whom the ſheriff was to ſend out of every county, were repreſentatives of each county, or knights of the ſhire, what were the other *milites qui ſummoniti fuerunt eſſe apud Oxoniam* &c? If theſe latter knights were, as Mr. Selden ſeems to ſuppoſe, the inferior tenants in chief, who, by the clauſe in King John's Magna Charta, are diſtinguiſhed from the greater barons, and are to have only a general ſummons to parliament, what were the four whom the ſheriff was required to ſend out of every county, *ad loquendum nobiſcum de negotiis regni noſtri?* There is no notice taken, that they were to be choſen *de legalioribus et diſcretioribus militibus ſingulorum comitatuum*, as in the ſummons of the forty ninth of Henry the Third, nor who were to chuſe them; but it rather ſeems to have been left to the ſheriff himſelf. Neither does it appear, why the other *milites qui ſummoniti fuerunt* were ordered to come with their arms, and the barons unarmed, nor who theſe barons were. If they were the king's barons, the *barones majores*, they ought to have been ſummoned by letters from the king, and not by the ſheriff. The whole is ſo obſcure, that I can draw no inference from it, except that there was at that time an irregularity and arbitrary variation in the ſummons to parliament, which might be owing to the confuſed and unſettled ſtate of the kingdom.

Two years afterwards, a method of ſummons for tenants in chief of the king, with a diſtinction between his greater barons, and other vaſſals of a degree inferior to thoſe, was ſettled by one of the clauſes in King John's Magna Charta, which I ſhall tranſcribe from the manuſcripts of the greateſt authority, viz. thoſe which Dr. Blackſtone has followed in his edition. "Et ad habendum commune conſilium regni de auxilio "aſſidendo, aliter quam in tribus caſibus prædictis, vel de ſcutagio aſ- "ſidendo, *ſummoneri faciemus archiepiſcopos, epiſcopos, abbates, comites, et "majores barones ſigillatim per literas noſtras: et præterea faciemus ſum- "moneri in generali per vicecomites et ballivos noſtros omnes illos qui de nobis "tenent in capite* ad certum diem, ſcilicet ad terminum quadraginta "dierum ad minus, et ad certum locum; et in omnibus literis illius "ſummonitionis cauſam ſummonitionis exprimemus: et ſic factâ ſum- "monitione negotium ad diem aſſignatum procedat *ſecundum conſilium "illorum qui præſentes fuerint, etſi non omnes ſummoniti venerint.*"

The

The words *faciemus ſummoneri in generali, per vicecomites et ballivos noſtros, omnes illos qui de nobis tenent in capite*, do not expreſs an *election* or *repreſentation*, but only direct that the ſummons to theſe ſhould be *general by the ſheriffs or bailiffs of the king in each county*; whereas the others were to be ſummoned *by particular writs*. In the firſt writ cited here, of the fifteenth of King John, the ſummons was general, as well to the greater barons, as to the king's inferior tenants in chief; but it is declared in the writ itſelf, that this was done againſt the proper form, and only for more expedition: "Ut negotium illud, quod et no-" bis et vobis ad commodum cedat et honorem, *cum majori expediretur* " *feſtinatione*." This clauſe of King John's charter re-eſtabliſhes and confirms the ancient method with relation to the greater barons, but admits of the general ſummons with relation to all others who held *in capite* of the crown. There is in it no intimation, that they were to be repreſented by knights of the ſhire, as Spelman and others ſuppoſe; nay, the laſt words thereof ſeem rather inconſiſtent with any kind of repreſentation, "et ſic factâ ſummonitione, negotium ad diem aſſigna-" tum procedat *ſecundum conſilium illorum qui præſentes fuerint, etſi non* " *omnes ſummoniti venerint*." This was proper to be declared in the caſe of a general ſummons to a large number of perſons, becauſe there the non-attendance of many among them might well be apprehended: but had they been required to appear by repreſentatives from every county, ſuch a declaration would not have been neceſſary, nor could it have been prudently made.

The term of forty days which is aſſigned in the clauſe for their coming to parliament after their ſummons, and the promiſe there given, that the cauſe of their ſummons ſhould be expreſſed in the writs, I ſuppoſe were agreeable to the uſage of the kingdom in caſes of the ſame nature, that is, in the ſummons to all the greater barons, to the knights of the ſhires, and to the repreſentatives of cities and boroughs. But it muſt be obſerved, that, in all the ancient copies of the ſeveral charters of King Henry the Third, this clauſe is left out. I have ſeen an accurate tranſcript of that which he granted in the firſt year of his reign, taken from the archives of the church of Durham; and there I find the reaſon why this and ſome other clauſes of King John's Magna Charta were omitted therein. The words are theſe: "Quia vero " quædam capitula in priore cartâ continebantur, quæ *gravia* et *dubita-* " *bilia* videbantur, ſcilicet de ſcutagiis et auxiliis aſſidendis, de debitis " Judæorum, et aliorum, et de libertate exeundi de regno noſtro vel " redeundi in regnum, et de foreſtis et foreſtariis, warrennis et waren-

" nariis, et de conſuetudinibus comitatuum, et de ripariis et eorum cuſto-
" dibus, placuit ſupradictis prælatis et magnatibus ea eſſe in reſpectu
" quouſque plenius conſilium habuerimus, et tunc faciemus pleniſſime
" tam de hiis *quam de aliis quæ occurrerint emendanda*, quæ ad commu-
" nem omnium utilitatem pertinuerint et pacem et ſtatum noſtrum et
" regni noſtri." (For the eaſe of the reader I give this clauſe without the abbreviations in the old writing). The difficulty therefore concerning the aſſeſſment of ſcutage and aids, about which there was a doubt, and which the king's miniſters might think an encroachment upon his prerogative, occaſioned this clauſe to be left out, together with ſome others. In the ſubſequent charters of King Henry the Third, proviſion is made, *that ſcutage ſhall be taken as it was in the time of King Henry the Second:* " Scutagium de cætero capiatur, *ſicut capi ſolebat tempore* " *regis Henrici avi noſtri.*" And there is a general ſaving to all perſons of the liberties and free cuſtoms they had before enjoyed. " Et " ſalvæ ſint archiepiſcopis, epiſcopis, abbatibus, prioribus, comitibus, " baronibus, templariis, hoſpitalariis, et omnibus aliis, tam eccleſiaſticis " quam ſæcularibus perſonis, *libertates et liberæ conſuetudines quas prius* " *habuerunt.*" This was a medium between an expreſs declaration (ſuch as had been inſerted into King John's Magna Charta) of the right of the ſubject to have no aids nor ſcutage taken without conſent of parliament, and a denial of that right on the part of the crown. But the clauſe in King John's charter concerning the method of ſummons to parliament was entirely dropt in all the ſubſequent charters, both of King Henry the Third and King Edward the Firſt. Sir H. Spelman aſſigns it as a reaſon for this omiſſion, that this whole branch of King John's Magna Charta was not comprized in the articles between him and his barons, whereupon that charter was grounded, but gained from him afterwards. Yet, as I ſee no cauſe why King Henry the Third, or his ſon, ſhould have been unwilling to agree to this method of ſummons, which was much more eaſy and convenient to them than the former, I rather aſcribe it to a diſſatisfaction in ſome of the inferior tenants in chief, who might think it an injurious diminution of their privileges, not to be ſummoned as the greater barons were, and as theſe had uſually been, by particular writs. This might probably induce the crown to recur to the old method of ſummons; till the expedient of repreſenting them by knights of the ſhires, in the ſame manner as other freeholders in the ſeveral counties had before been repreſented, and thus exempting them from the obligation of attending in perſon, was agreed to and ſettled, about the middle, or towards the latter end of the reign of King Henry the Third,

V. Spelman of Parliaments, p. 65.

according to the beſt lights I can obtain in this matter. Yet all the inferior tenants in chief of the king were not comprehended in that repreſentation: for we find by the cloſe rolls, that, in the thirty fourth year of Edward the Firſt, the tenants *in antient demeſne* came to parliament, and acted therein diſtinctly from the knights of the ſhire. It likewiſe appears by a record, that, in the fifth year of King Edward the Second, they were exempted from contributing to the wages of ſuch knights. (V. Cotton's Abridgement of the Records in the Tower, p. 1.)

V. Rot. Clauſ. 34 Edw. I. m. 15. dorſ. in cedulâ. & Brady of Boroughs, p. 37. & Tyrrel's Appendix to Hiſt. of England, p. 174, 175, 176.

I cannot quit this ſubject without obſerving, that, although in the above-mentioned clauſe of King John's charter mention is made of the *greater barons*, who were to be ſummoned to parliament by particular writs, yet the other tenants of the king, who were to be ſummoned generally, are not there called *leſſer barons*; nor do I find *that title* ever given to the *inferior tenants in chief of the king*, in any charter or record. But there are ſome very antient, which give the name of *barons* to the principal tenants *under the king's barons*. For inſtance, the barons of Robert Fitzhaimon earl of Gloceſter are mentioned in a charter of King Henry the Firſt to the abbey of Abington. "Sicut deſignatum fuit *per barones* "*ipſius Roberti*." And Henry de Novoburgo earl of Warwick gave certain lands in that county to the ſame abbey *in the preſence of his barons* (ſays the grant); one of which *barons*, viz. Thurſtan de Montfort, is recorded to have held ten knights-fees under the grandſon of that earl.

V. Monaſticon, tom. i. p. 106. Hody's Hiſt. of Convocat. p. 289. V. Dugdale, Warwickſhire, f. 303. Hody, ut ſuprà.

In one of the laws of the Norman kings of Sicily are theſe words: "Poſt mortem *baronis* vel *militis*, qui à *comite* vel *barone alio baroniam* "*aliquam vel feudum tenuerit*."

Bracton likewiſe thus deſcribes the vavaſſors, or great ſubvaſſals: "Sunt et alii, qui dicuntur vavaſſores, *viri magnæ dignitatis:*" and he ranks them next to the king's barons. Theſe had therefore a better right to the title of *leſſer barons* than thoſe who held of the king *in capite* by ſocage, or by feefarm, or by a ſingle knight's-fee, or half a knight's-fee; as many did among thoſe who by the above-cited clauſe in the charter of King John were to have only *a general ſummons to parliament*. Nor was there any impropriety in ſuch perſons repreſenting *the community of the county*, in which they were ſome of the principal gentlemen, having *curiam de ſuis hominibus*, courts of their own, as lords of manors, which to this day are called *court barons*.

L. i. c. 8.

It is ſaid in an antient manuſcript, cited by Camden, that King Henry the Third, "poſt magnas perturbationes et enormes vexationes, inter "ipſum regem, Simonem de Monteforti, et alios barones motas et ſopitas, "*ſtatuit et ordinavit, quod omnes illi comites et barones regni Angliæ, quibus*

V. Camden's Britannia. Selden's Titles of Honour, ſect. 21. p. 740.

" *ipſe rex dignatus eſt brevia ſummonitionis dirigere, venirent ad parlia-*
" *mentum ſuum, et non alii, niſi forte dominus rex alia ſimilia brevia eis*
" *dirigere voluiſſet.*"

Upon this I would obſerve, that here is no mention of *leſſer barons*, who might be called to parliament by the king's writs; but the ſenſe of the paſſage is, that, at the end of the troubles between Henry the Third and his barons, (viz. after the battle of Eveſham) he acquired a power, by act of parliament, to call to his parliaments *ſuch earls and barons of the realm*, as he ſhould vouchſafe to ſend writs to, *excluſively of all others*, who were not to come, *unleſs he afterwards ſhould ſend to them the like writs*. Which power was exerciſed by ſome of his ſucceſſors in the perſons of the moſt ancient and greateſt barons of the realm. For inſtance, William de Veſci, the brother and heir of John de Veſci, who had been ſummoned in the forty ninth of Henry the Third, *inter majores barones*, was not ſummoned till the twenty third of Edward the Firſt, though he was forty years old at John's deceaſe; and, from that year till the ſixth of Edward the Second, was never ſummoned again. Many other inſtances of the like nature occur in looking over the liſts of ſummons to parliament. And ſome who had been ſummoned were totally omitted, and came no more to parliament. This was certainly a very great and extraordinary change of the ancient conſtitution, which ſuppoſed that the right of adviſing the king in his great council was inherent in his barons, and not to be taken from them without forfeiture of their baronies. Nothing indeed could have induced them to conſent to ſuch a law, but the great diſorder into which the whole ſtate had been thrown by a long civil war, in the end of which Henry the Third and his ſon Prince Edward were victorious, and able to do what they pleaſed. It is very ſurpriſing, that in times, when the ſtrength of the peerage was leſs awed by that of the crown, the eſtabliſhed feudal notions ſhould not have prevailed to the abolition of this law. I muſt however obſerve, that with relation to *earls* the power never was exerciſed; it not appearing that any of theſe were at any time omitted. And as for thoſe, who, without having any baronies in them, were called to parliament by writs from the crown, the learned author of the *Inquiry into the manner of creating Peers*, has ſaid much to
P. 43. prove, that ſuch writs *gave them no peerage*. He obſerves, " that,
" from the forty ninth of Henry the Third to the twenty third of
" Edward the Fourth (from which times the ſummons have been more
" regular) not fewer than ninety eight laymen have been ſummoned to
" parliament at one ſingle time, by the very ſame writs by which the earls

" and

" and other undoubted barons were ſummoned, and yet neither them-
" ſelves, nor any of their name or poſterity, were ever afterwards ſum-
" moned to any parliament or great council." From whence, and from the ſilence of the houſe of lords and of the heirs of theſe ſeveral perſons, with regard to this omiſſion, and from there being no words in their writs that expreſs any creation of a peerage or barony, he takes it for granted, that they could only be ſummoned as *aſſiſtants* to the houſe of lords, and as *de conſilio regis in parliamento.* This hypotheſis would undoubtedly ſolve many difficulties in this dark part of the Hiſtory of our ancient Conſtitution, if it could be fully made out. But, in the caſe of the greater barons, the ſeparating from their peerages the right of voting in parliament, and ſubjecting it to the arbitrary will of the king, whether it was done by an act of parliament (as the words *ſtatuit et ordinavit*, in the words cited by Camden, ſeem to imply) or by a mere extenſion of prerogative, was an innovation very hurtful to the dignity of the peers and to the balance of the government. Some have doubted the authority of the manuſcript cited by Camden; and I ſhould give no credit to it, if it were not confirmed by the indiſputable practice of all our kings from Edward the Firſt to Richard the Third. It muſt however be noted, that ſuch omiſſions in many caſes, though not in all, may be well accounted for, from the frequent and neceſſary abſence of many of the peers on the king's ſervice abroad, while the crown had great dominions and almoſt perpetual wars on the continent. On ſuch occaſions the omitting to ſummon them to parliament was no encroachment on their rights, but a proper exemption from a duty they could not perform. It may alſo have been done not improperly, according to the notions of thoſe times, when the lands that conſtituted a barony were ſeized by the crown for any fault or defect of ſervice, during the life of the baron, or for any number of years: whereas an arbitrary omiſſion of ſummoning thoſe to parliament, who were willing and able to do their duty there, if it did not extinguiſh the peerage, deprived it of one of it's moſt valuable privileges; and, if it did extinguiſh it, rendered the higheſt property of the kingdom quite precarious and dependent on the will of the crown. But this belongs not to my ſubject; no ſuch thing having been thought of in the times of Henry the Second, or ever before. What I meant to conſider here was only the notion, that *the leſſer barons*, or the *barones ſecundæ dignitatis*, were not *the great ſubvaſſals* who held manors under earls or other eminent nobles, but *the inferior tenants in capite of the crown*; a notion eſpouſed by ſome writers of no ſmall authority, and on which

P. 35 to 45.

which more than one hypotheſis has been founded, with no warrant from antiquity, ſo far as I can diſcover.

P. 277. *A writ of ſummons directed to the ſheriffs of Bedfordſhire and Buckinghamſhire, and requiring two knights to be ſent for each of thoſe counties, is extant in the cloſe roll of the thirty eighth year of Henry the Third.*

The words of the writ are theſe: "Tibi diſtricte præcipimus, quod "præter omnes prædictos venire facias coram *concilio noſtro* apud Weſtm. "in quindenâ Paſchæ prox. fut. 4 *legales et diſcretos milites de comitatibus* "*prædictis*, quos idem comitatus ad hoc *elegerint*, *vice omnium et ſingulo-* "*rum eorundem*; viz. 2 *de uno comitatu*, et 2 *de alio*, ad providendum *una* "*cum militibus aliorum comitatuum*, quos ad eundem diem *vocari fecimus*, "quale auxilium nobis in tantâ neceſſitate impendere voluerint. Et tu "militibus et *aliis* de comitatu prædicto neceſſitatem noſtram, et tam "urgens negotium noſtrum diligenter exponas, et ad competens auxi- "lium nobis ad præſens impendendum efficaciter inducas. Ita quod "præfati 4 milites præfato concilio noſtro ad prædictum terminum "Paſchæ reſpondere poſſint ſuper prædicto auxilio *pro ſingulis comitatibus* "prædictorum" &c. Dr. Brady ſuppoſes that this was not a ſummons *to a general council*; but Dr. Hody calls it *a parliament*, and I think with good reaſon. For M. Paris ſays, *congregati ſunt iterum Angliæ magnates Londini*. The word *iterum* refers to the preceding council, held the ſame year, ſexto Calend. Februarii, which the ſame author calls *parliamentum*. But in reality this point is not worth diſputing. For if, at this time, the knights of the ſhires were ſummoned to *the leſſer councils*, they certainly were to *the greater*. It is obſerved by Dr. Brady, that the date of the writ was ſoon after the breaking up of a general council. And ſo it well might, becauſe that general council had denied the king aid, and therefore it was neceſſary to ſummon another as ſoon as poſſible. He alſo objects, that there are two other parts of this writ, the laſt of which is a command to the ſheriff to levy all debts that were due to the king, &c. *A clauſe not to be found in parliament-writs.* But this, at moſt, proves only what I ſhall not diſpute, that the form of theſe writs was not then ſo preciſely determined, as not to admit of occaſional variations. Nor does the coupling of other things with a ſummons to parliament make it no ſummons.

See Brady's Introduction to his Hiſtory, vol. i. from p. 212 to 215. See Hody, p. 341. V. M. Paris, ſub ann. 1254. p. 595. & additam. p. 123. P. 592. ibidem. See alſo Hody, p. 338.

Ibid. *And there is a clauſe in the great charter of the ninth of the ſame king, whereby it is declared, that, together with the ſpiritual and temporal lords,*

lords, other inferior freeholders, et omnes de regno, *by which words I underſtand* the whole commonalty of the realm, *granted to the king the fifteenth part of all their moveable goods, in return for the liberties accorded to them in that charter.*

The words in the original are theſe: "Pro hac autem conceſſione et "donatione libertatum iſtarum et aliarum libertatum contentarum in "cartâ noſtrâ de libertatibus Foreſtæ, archiepiſcopi, epiſcopi, abbates, "priores, comites, barones, *milites, libere tenentes,* ET OMNES DE REGNO "NOSTRO dederunt nobis quintamdecimam partem omnium mobilium "ſuorum." The words *milites, libere tenentes, et omnes de regno noſtro dederunt nobis* &c. coming after *barones* &c. ſeem to declare very plainly, that the whole commonalty of the kingdom had concurred with the nobility in granting this tax to the king, as a return for the charter. Dr. Brady, to elude the force of the proof againſt his hypotheſis, is obliged to contend, that *dederunt* in this place ſignifies *paid,* and not *granted.* But Dr. Hody obſerves rightly, that this conjecture appears to be falſe, from this conſideration, *that the charters were drawn up in the parliament itſelf, wherein the ſubſidy was granted, and ſealed long before the money could be paid.* He adds, "it cannot be ſuppoſed that *omnes de regno* were "preſent in that parliament, ſo as to grant the ſubſidy in their own "perſons; but they did it either *per ſe* or *by their repreſentatives.*" How theſe words were underſtood by Henry de Knighton, who wrote his Hiſtory little more than a century afterwards, will appear from this paſſage, in his account of the reign of Henry the Third: "Poſt hæc "Rex Henricus conceſſit *magnatibus terræ* duas chartas, unam de Foreſtâ, "et aliam de libertatibus, propter quam cauſam *communes regni* con- "ceſſerunt quintam decimam partem omnium bonorum ſuorum mobi- "lium *et immobilium.*" The two laſt words are a miſtake, being not agreeable to the charter: but the words *communes regni* are a clear explanation of the *omnes de regno* in the charter. As for the expreſſion *rex conceſſit magnatibus terræ duas chartas,* it muſt not be underſtood as excluding the commons out of that grant; for the contrary appears by the charter itſelf: but *magnatibus* is here a general term that comprehends the whole parliament; as it certainly does in many other paſſages of our ancient hiſtorians. And we have in the Cotton library a manuſcript chronicle of Walter de Coventry, who lived and wrote under the reign of Henry the Third, which, in giving an account of this parliament, ſays, "Ibidem *conceſſa* eſt D. regi a comitibus, et baronibus, et clero *et* "*populo,* quinta decima omnium bonorum." But what will better determine the true ſenſe of this clauſe, is the following paſſage in a record

See Hody's Hiſt. of Convoc. p. 303.

See Tyrrel's App. p. 21. vol. v.

of

See Petit, Rights of the Comm. App. p. 164. Hody, Hiſt. of Convoc. p. 335, 336.

of the thirty ſeventh of that king: "Noverint univerſi, quod D. H. "rex Angliæ illuſtris, R. Comes Norff. et Mareſchallus Angliæ, H. "Comes Hereford et Eſſex. J. Comes de Warwico, P. de Sabaudiâ, "*cæterique magnates Angliæ* conſenſerunt in ſententiam excommuni- "cationis generaliter latam apud Weſt. tertio decimo die Maii ann. "regni regis prædicti 37, in formâ ſcil. quod vinculo præfatæ ſententiæ "ligentur omnes venientes contra libertates contentas in cartis commu- "nium libertatum Angliæ, et de Foreſtâ &c. Sciendum autem quod ſi "in ſcriptis ſuper eadem ſententia a quibuſcunque confectis, ſeu con- "ficiendis, aliud vel aliter oppſitum vel adjectum fuerit, aut articuli ali- "qui alii in eis contenti inveniantur, D. rex, *et prædicti magnates omnes*, "*et communitas populi*, proteſtantur publice in præſentia venerabilium "patrum B. Dei gratia Cant. arch. totius Angliæ primatis, nec non et "epiſcoporum omnium in eodem *colloquio* exiſtentium, quod in ea num- "quam conſenſerunt nec conſentiunt, ſed de plano eis contradicunt."

V. Rot. pat. 37 H. III. m. 12. dorſo.

This *colloquium* is called, by Matthew of Weſtminſter, *magnum parliamentum*. And ſurely the *communitas populi* being thus named in addition to, and diſtinct from, the *magnates omnes*, is a very ſtrong evidence, added to the others beforementioned, that the commons were preſent, and acted together with the nobles in this parliament, two years before the time aſſigned by Brady for their firſt coming to thoſe aſſemblies. That difference indeed would be ſmall, if it did not affect the whole foundation upon which his hypotheſis ſtands, viz. *that this Innovation was the conſequence of Simon de Montfort's victory at the battle of Lewis, and the captivity of the king.*

Ibid. *Nor can I diſcover, in the hiſtory of thoſe times, any reaſon ſufficient to render it probable, that ſo great an alteration ſhould then have been made in the conſtitution of England.*

It by no means appears, that, under the government of King Henry the Third, either the feudal powers of the nobility over the commons were more relaxed than they had been during the reigns of Henry the Second or Henry the Firſt; or that the condition of citizens and burgeſſes had been mended by any encreaſe of trade and commerce, or that the freeholders in the counties had been raiſed any higher, by an augmentation of wealth, or extenſion of privileges, which could open the way to ſuch a change. Nor was trade or commerce eſteemed *more honourable* in the age of Henry the Third than in that of his grandfather, or during the government of the Saxons. On the contrary, the diſpoſition and temper of the times, as well as the genius of the government, were more unfa-

vourable to trade in the Norman times than the Saxon; and the ſtate of England, during the period from the death of Henry the Second till that of Henry the Third, was more turbulent, more diſtempered, and more unfriendly to the encreaſe of the national induſtry, or any enlargement of our commerce, than under the moderate and prudent adminiſtrations of the two former Henries.

P. 279. *We know indeed that ſome boroughs, which, from their poverty, were unable to bear the expence of ſending members to parliament, declined the uſe of that privilege.*

There are ſome inſtances of boroughs that petitioned to be reſtored to the uſe of that privilege after a very long interruption. Thus, in the reign of James the Firſt, Agmondeſham, Wendover, and Great Marlow alledged, by petition to the houſe of commons, that the interruption in their ſending burgeſſes, *for four hundred years paſt*, was not owing to their own neglect, but to the fault of the ſheriffs; or, if it was owing in any meaſure to the burghs themſelves, *it was becauſe their predeceſſors were poor and unable to maintain their members*; whereas now they were content to undergo that charge.

See Brown Willis, vol. i. p. 149.

On this I would obſerve, that, as they had not complained before, in ſo long a period of time, it is probable, that it was not *the neglect of the ſheriffs*, but *their poverty and inability to bear the charge of ſending members to parliament*, which had occaſioned ſo long an interruption of their right. Their petition was allowed, by the commons and the king, as it appeared that they were parliament burghs *by preſcription*, not by charter.

Ibid. *Among the cloſe rolls of the twenty fourth year of that king, there is a writ of ſummons to parliament, in which it is aſſerted, not as an innovation introduced by the earl of Leiceſter, but a maxim grounded on a moſt equitable law, eſtabliſhed by the foreſight and wiſdom of ſacred princes, that what concerned all ſhould be done with the approbation of all; and that dangers to the whole community ſhould be obviated by remedies provided by the whole community.*

The words are theſe: "*Sicut lex juſtiſſima, provida circumſpectione ſacrorum principum ſtabilita, hortatur, ut quod omnes tangit ab omnibus approbetur, ſic et innuit evidenter, ut communibus periculis per remedia proviſa communiter obvietur.*" If the earl of Leiceſter had been the firſt who applied this maxim to the conſtitution of Engliſh parliaments or great councils, it would have been impoſſible for Edward the Firſt to

Rot. Clauſ. 24 Edw. I. m. dorſo.

have grounded it on a law *providâ circumſpectione ſacrorum principum ſtabilita*. Nor could he have uſed that expreſſion, if he himſelf, or his father, had introduced the practice of ſummoning the commons to thoſe aſſemblies.

Ibid. *Some very eminent writers have ſuppoſed, that none but the king's inferior tenants in chief were at firſt repreſented by the knights of the ſhires: but there is no ſufficient evidence to ſupport that opinion.*

See Spelman of Parliaments, p. 64.

Sir H. Spelman and other writers have dated the original of knights of the ſhires from one of the clauſes in King John's Magna Charta, which directs that the inferior tenants in chief of the crown ſhould be ſummoned to parliament *in general*. But that thoſe words do not import any *repreſentation*, I have endeavoured to ſhew in a former note to this book: nor does it appear by other evidence, either of records or of hiſtory, that, in conſequence of that clauſe, *ſuch tenants in chief* were at any time *the ſole electors of knights of the ſhires*, or *that only ſuch tenants in chief could be elected*. Sir H. Spelman indeed adds "that other "freeholders, becauſe they could not always be diſtinguiſhed from "them that held *in capite* (which encreaſed daily) grew by little and "little to have voices in the election of the knights of the ſhires, and to "be at laſt confirmed therein by the ſtatute 7 Hen. IV. and 8 Hen. VI." But how does he ſhew that there ever was a time, when knights of the ſhires were elected by the *tenants in capite*, without the voices of other freeholders? He ſuppoſes the point which ſhould be proved. For, that under the reigns of King John and of Henry the Third, when he thinks that ſuch elections began to be made, other freeholders came to the county-court is moſt certain.

See Keble's Statutes, 7 Hen. IV. c. 15.

If we conſider the ſtatute of the ſeventh of Henry the Fourth, which is the oldeſt in our books that regulates or directs the form of county elections, we ſhall find it was made (as the preamble declares) *at the grievous complaint of the commons in parliament of the undue election of the knights of counties for the parliament, which be ſometimes made of affection of ſheriffs, and otherwiſe, againſt the form of the writs directed to the ſheriff, to the great ſlander of the counties, and hindrance of the buſineſs of the commonalty in the ſaid counties*, &c. All the regulations laid down in it appear deſigned to prevent abuſes ariſing from the partiality of the ſheriffs, or other undue influence uſed in elections; not to make or to confirm any change in the qualifications or rights of the electors. The enacting part of it ſays, "Our ſovereign Lord the King, *willing therein to* "*provide remedy*, by the aſſent of the lords ſpiritual and temporal, and

" the commons in this preſent parliament aſſembled, hath ordained and " eſtabliſhed, that from henceforth the elections of ſuch knights ſhall be " made in the form as followeth: (that is to ſay) at the next county to " be holden after the delivery of the writ of the parliament, *procla-* " *mation ſhall be made in the full county of the day and place of the parlia-* " *ment, and that all they that be there preſent, as well ſuitors duly ſum-* " *moned for the ſame cauſe, as others, ſhall attend to the election of the* " *knights for the parliament*, and then in the full county they ſhall pro- " ceed to the election *freely and indifferently, notwithſtanding any requeſt* " *or commandment to the contrary*," &c. What follows concerns only the return of the writ, and neither in the part above-recited, nor in any ſubſequent clauſe, is there a word that denotes any intention in the legiſlature to encreaſe the number of electors of knights of the ſhires, in prejudice to the right of the king's tenants in chief, or that gives the leaſt intimation of any ſuch right having been ever in thoſe tenants, excluſive of others, who were ſuitors to the county-court and preſent therein. All the freeholders were ſo from the earlieſt times: and that the ſubſtance of this law was no more than *an affirmance of an old right and cuſtom*, appears from the preamble of a ſubſequent act made in the eleventh of the ſame king, which ſays, that " whereas in the parliament holden at Weſt- " minſter, the ſeventh year of the reign of our ſaid Lord the king, there " was ordained and eſtabliſhed by a ſtatute *for the preſervation of the* " *liberties and franchiſes of the election of the knights of the ſhire uſed* " *through the realm*, a certain form and manner of the election of ſuch " knights, as in the ſaid ſtatute more fully is contained," &c. There can be nothing more different than *the preſervation of liberties and franchiſes uſed through the realm in elections*, from the communicating of a liberty and franchiſe to perſons not entitled to it before. The act of the eighth of Henry the Sixth, inſtead of enlarging, reſtrains the number of electors. It enacts, that thoſe knights ſhall be choſen in every county *by people dwelling and reſident in the ſame counties, whereof every one of them ſhall have land or tenement, to the value of forty ſhillings by the year at the leaſt, above all charges:* which is explained in a ſubſequent act, of the tenth of the ſame king, to mean *freeholds of that value within the county for which the election is to be made.* And the reaſon why this was done is ſet forth in the preamble: *Whereas the elections of knights of ſhires to come to the parliaments of our Lord the King, in many counties of the realm of England have now of late been made by very great outrageous and exceſſive number of people, dwelling within the ſame counties of the realm of England, of the which moſt part was of people of ſmall ſub-*

ſtance and of no value, whereof every of them pretended a voice equivalent, as to ſuch elections to be made, with the moſt worthy knights and eſquires dwelling within the ſame counties, whereby man-ſlaughter, riots, batteries, and diviſions among the gentlemen, and other people of the ſame counties, ſhall very likely riſe and be, unleſs convenient and due remedy be provided in this behalf: our Lord the King, conſidering the premiſſes, hath provided, ordained, and eſtabliſhed by authority of this preſent parliament, &c.

It is amazing that any perſon, who had ever read this ſtatute, or that of the ſeventh of Henry the Fourth, ſhould ſay, as St. Amand does in his Hiſtorical Eſſay on the Legiſlative Power of England, p. 187. that *none but the immediate tenants of the crown (the leſſer barons) came to the county-court, and none other had votes till, by the* 8 H. VI. c. 7. *all freeholders of* 40 s. *per annum had that right given them.* The very reverſe of all this appears by the ſtatute he refers to: it *gives* no right to freeholders of 40 *s. per ann.* which they had not before; but *excludes* all thoſe who had freeholds *under that value.* The words, *whereas the elections of knights of ſhires in many counties of England have now* OF LATE *been made by very great, outrageous, and exceſſive numbers of people, and whereof every of them* PRETENDED *a voice equivalent with the moſt worthy knights and eſquires dwelling within the ſame counties,* ſhew beyond contradiction, that the intention of the legiſlature in enacting this ſtatute was not to alter the conſtitution and uſage of the kingdom, with reſpect to elections for the ſhires, but to remedy a *recent abuſe* and *innovation,* grounded (as they thought) on unjuſtifiable pretenſions. It ſeems pretty evident, that the practice of parcelling out land in ſmall portions, and thereby multiplying freeholds inferior in value to what they had uſually been in former times, produced this complaint of *very great, outrageous, and exceſſive numbers of people, who were of ſmall ſubſtance and of no value, coming to theſe elections.* But it is certain, that this law and that of the tenth of the ſame king were *reſtrictive,* inſtead of giving a right of voting to any freeholders who did not before enjoy that franchiſe.

That *none but the immediate tenants of the crown (the leſſer barons) came to the county-court before the eighth of Henry the Sixth* (as the ſame author aſſerts), is a moſt falſe and unwarranted propoſition. I have given, in the Appendix to the firſt volume of this Hiſtory, a charter of Henry the Firſt, relating to the manner of holding county courts, in which it is ſaid by that king, "Et volo et præcipio, *ut omnes de comitatu* "*eant ad comitatus et hundreda, ſicut fecerint tempore regis Edwardi.*" And in another clauſe he ſays, "Et ſi modo exurgat placitum de divi- "ſione terrarum, ſi eſt inter barones meos dominicos, tractetur placitum "in

V. Appendix to the firſt volume, p. v.

" in curiâ meâ: *Et ſi eſt inter vavaſſores duorum dominorum, tractetur in* " *comitatu.*" The vavaſſors therefore were ſuitors to the county-court, and all the freeholders of the county, *omnes de comitatu*, were required *to go thither, as they had done in the time of Edward the Confeſſor.* Nor does it appear that any alteration was made in this point by any ſubſequent law. In the above-recited ſtatute of the ſeventh of Henry the Fourth, *all that are preſent in the county-court, as well ſuitors duly ſummoned for the ſame cauſe, as others, are commanded to attend to the election of the knights for the parliament.* And that, before the making of this law, the vavaſſors, or *meſne tenants*, who did not hold their lands directly of the king, might not only concur in the elections of knights of the ſhires, but be themſelves *elected*, ſeems evident from the words of Chaucer, in the deſcription of his *Franklin.*

" At ſeſſions was he lord and ſire,
" Full oftimes was he *knight of the ſhire*;
" A ſheriff had he been and a coronour,
" Was never ſuch a worthy *vavaſſour.*"

Yet it muſt be obſerved, that, to qualify any perſon for being elected, the mere poſſeſſion of a knight's-fee was not ſufficient; but it was neceſſary that he ſhould be *miles gladio cinctus*, that is, knighted according to the forms then in uſe. By an act of the firſt of Richard the Second, all who had lands to the value of twenty pounds yearly in fee, or for term of life, were obliged to receive the order of knighthood. And this law ſeems to have been founded on a more ancient cuſtom. For there are writs of Henry the Third, commanding the ſheriffs to ſummon to the county courts all who held one knight's-fee, or leſs than a whole knight's-fee, *dum tamen de tenemento ſuo, tam militari quam ſocagio, poſſint ſuſtentari*, that they might be there made knights. There is alſo an act of 23 Hen. VI. c. 15. which ſays, " *the knights of the ſhires ſhall be notable* " *knights of the ſame counties for the which they ſhall be choſen*, or otherwiſe " *ſuch notable eſquires, or gentlemen born, of the ſame counties, as ſhall be* " *able to be knights: and no man to be ſuch knight, which ſtandeth in the* " *degree of a yeoman, or under.*"

See Cotton's Abridgement of the records in the Tower, p. 13. Edw. III. p. 18, 19. V. Rot. Clauſ. 24 Hen. III. m. 8. dorſo. & 26 Hen. III. m. 6.

In this law *the ability of being made a knight*, that is, the having freeholds ſufficient to qualify them for it, is admitted inſtead of the actual order of knighthood required by the old writs: and *yeomen*, with *all under that degree*, are *excluded*, agreeably, I preſume, to ancient uſage: but in no ſtatute relating to the knights of the ſhires is there the leaſt intimation of it's being required that they ſhould be *tenants in capite*

capite of the king, or of the uſage having been altered with regard to that point.

The next circumſtance I ſhall conſider belonging to this matter is the wages paid to the knights. It muſt be granted, that, if by virtue of the abovementioned clauſe in King John's Magna Charta, or by any ſubſequent ſtatute or cuſtom introduced in the time of Henry the Third or Edward the Firſt, ſuch knights were elected *by tenants in capite of the king*, *excluſively of all others*, and repreſented *them alone*, no others could be charged with the payment of their wages. But in one of the parliament rolls of the fifty firſt year of Edward the Third, n. 45. the commons petition the king, that the ſaid expences be levied *of all the commons of the counties, as well within franchiſes as without; except the franchiſes of cities and boroughs, and except thoſe who come to parliament by writs of ſummons, and their tenants who hold in bondage.* The words in the record, which I have examined, run thus: *Que plaiſe au roy notre ſeigneur que ſoit ordeine a ceſte preſent parlement, que les dites deſpenſes ſoient levez de toutz les communes des dites comtees, ſi bien deinz franchiſes come dehors; forſpris de la franchiſe des citees et burghs, et forſpris de ceux qui viegnent icy par brief à parlement, par ſummonce, et de leurs tenants qui tiegnent en bondage.* Of the preamble to this petition, which is very remarkable, I ſhall have occaſion to take notice in a ſubſequent note. It will be enough to add here, that the anſwer of the king is *ſoit fait come devant a eſté uſé en ce cas.* Which was the proper anſwer, becauſe no exception was made in this petition to tenants *in ancient demeſne*, or *in gavelkind*, who appear by other records to have been entitled to an exemption from theſe expences; and therefore the king would neither wholly reject, nor wholly grant the demand. But it was impoſſible that the commons could have made it ſo general, if the right of election for counties had in thoſe days been confined to *tenants in chief of the king*. And it is not pretended by Spelman, or any other writer, that it was extended or enlarged in the reign of any king between Henry the Third and Edward the Third incluſively. It ſeems to me therefore, that this roll contains a ſtrong evidence againſt the notion that the electors of knights of the ſhires were anciently none but the *tenants in capite*, called by ſome modern authors *leſſer barons*.

See the records in the Tower.

One of the moſt ſtriking arguments, uſed by Dr. Brady to ſupport that notion, is the manner of electing the commiſſioners for the ſhires in the kingdom of Scotland, where, by an act made in the year 1427, (the twenty third of James the Firſt) the *ſmall barons* and *free tenants, who held of the crown in capite*, were diſcharged from coming to parliaments, and

and allowed to chuſe commiſſioners to ſerve in their ſtead. This law was confirmed in the year 1587, by an act of James the Sixth, wherein it is declared, that none ſhall have votes but ſuch as have forty ſhillings land in free tenendrie *holden of the king*. The permitting of the inferior tenants in chief to come to parliament by repreſentatives, inſtead of a perſonal attendance, I believe to have been done (as many other things were in Scotland) after the example of England; but the excluding of all *not holding of the king* from ſuch elections ſeems to have ariſen from a policy, which had before rendered the government and conſtitution of Scotland very different from our's in many reſpects. For (whatever conformity there was between them in the times of which I write) it is certain, that, from the reign of Alexander the Third to that of James the Firſt, the ariſtocratical power in the ſtate of that kingdom had continually encreaſed, and prevailed over the popular, far more than in England. No juſt or concluſive inference can therefore be drawn from this circumſtance in thoſe laws, to prove by analogy, that no freeholders, but tenants in chief of the crown, had anciently a right to elect the repreſentatives of Engliſh counties.

P. 280. *There is not in any of thoſe writs, nor in the oldeſt we have for ſending up repreſentatives from cities or boroughs, the leaſt intimation, that ſuch elections were a novelty then introduced.*

The words of the writ directed to the ſheriff of Bedfordſhire and Buckinghamſhire, in the thirty eighth of Henry the Third, which is the oldeſt now remaining, have been recited in a former note to this book. The next for knights of the ſhires, which is of the forty ninth of the ſame king, runs thus: "Item mandatum eſt ſingulis vicecomitibus per "Angliam, quod venire faciant duos milites de legalioribus et diſcreti-"oribus militibus ſingulorum comitatuum ad regem London in Octabis "prædictis *in forma ſupradicta*." The writ, which contains the form here referred to, is loſt. To the cities and boroughs we have one in theſe words: "Item *in forma prædicta* ſcribitur civibus Ebor. civibus "Lincoln. et cæteris burgis Angliæ; quod mittant *in forma prædicta* "duos de diſcretioribus et legalioribus et probioribus tam civibus quam "burgenſibus ſuis." The form here referred to may probably have been that of a writ of ſummons ſent to the city of London, and now loſt. For *that* was the moſt proper to be enrolled as a pattern for all the other writs to the cities and boroughs, *mutatis mutandis*. And it muſt be obſerved, that, in this abridgement or minute, York and Lincoln are particularly named, but London is not; which ſeems an evident proof, that

that the writ directed to that city was kept on the rolls, and therefore it was not thought neceſſary to enter the others, which were in the ſame form. The words *et cæteris burgis Angliæ* imply, that the boroughs which ſent members to Parliament were well known: but, if none had ever ſent any before this time, ſo general a deſcription of them could not have been given. It appears, that the Cinque Ports were ſummoned diſtinct from the others; and the writ to Sandwich only was entered on the rolls with a *ſimiliter mandatum eſt ſingulis portubus pro ſe.* Probably, that to London was in much the ſame form. The cauſe of their ſummons is there declared to be *tam pro negotio liberationis Edwardi primogeniti noſtri quam pro aliis communitatem regni noſtri tangentibus.* It is directed thus: *Rex baronibus et ballivis portus ſui de Sandwico ſalutem.* And the precept is, *Vobis mandamus, in fide et dilectione quibus nobis tenemini, firmiter injungentes* (ut) *omnibus aliis prætermiſſis mittatis ad nos ibidem quatuor de legalioribus et diſcretioribus portus veſtri. Ita quod ſint ibid. in Octab. prædictis nobiſcum, et cum præfatis magnatibus regni noſtri tractatum et ſuper paæmiſſis conſilium impenſuri. Et hoc, ſicut honorem noſtrum et veſtrum et communem utilitatem regni noſtri diligitis, nullatenus omittatis.* But further we find, that in the writs for the expences of knights of the ſhires, in the twenty eighth year of Edward the Firſt, which are the firſt of that reign remaining on the rolls, it is ſaid, that "the county ſhould pay them, *prout alias in caſu conſimili fieri conſuevit*, words which imply a cuſtom." It muſt indeed be obſerved, that the writ of the forty ninth of Henry the Third has not theſe words. Mr. Tyrrel ſuppoſes, that they were left out by the negligence of the clerks: but a better reaſon may be aſſigned from the writ itſelf. For there it is ſaid, that the expences of the knights had been very great, becauſe their attendance had been longer than they had expected; but that the counties having before contributed largely to other public expences for the defence of the kingdom, they ſhould not be charged to this too highly. "Cum nuper vocari fecimus duos de diſcretioribus militibus "ſingulorum com. &c. ac iidem milites *moram diuturniorem quam credebant traxerint ibidem, propter quod non modicas fecerint expenſas; cumque communitates comitatuum dictor. varias hoc anno fecerunt præſtationes ad defenſionem regni noſtri* &c. *per quod aliquantulum ſe nimium ſentiunt gravari*, tibi præcipimus quod duobus militibus, qui *pro communitate dicti comitatus præfato parliamento interfuerunt*, de conſilio quatuor legalium militum ejuſdem comitatus, *rationabiles expenſas ſuas* in veniendo ad dictum parliamentum, ibidem morando, et inde ad partes ſuas redeundo provideri facias, et eas de eadem communitate levari facias, *proviſo quod ipſa communitas occaſione præſtationis iſtius ſupra modum non gravetur.*" It is very probable therefore, that, as the expences of the knights

V. Rot. Clauſ. 28 Edw. I. m. 12. dorſo. Tyrrel's Appendix to his Hiſtory, p. 60, 61. & Bibliothec. Polit. Dial. viii.

V. Rot. Clauſ. 49 Hen. III. m. 10. dorſo. See alſo Brady's Anſwer to Petyr, p. 140.

knights of the ſhire had been greater than uſual, and the king was unwilling to load the counties, which had been ſo much burthened before, with too heavy a charge, the words *prout alias in caſu conſimili fieri conſuevit* were on purpoſe left out, as no proper rule to proceed by in this caſe.

Dr. Brady has given us a writ of expences allowed to four knights of each county in the kingdom, for attending upon a parliament in the forty ſecond year of Henry the Third, not as members thereof, but on an extraordinary commiſſion of inqueſt into all exceſſes, tranſgreſſions, and injuries done and committed by juſtices, ſheriffs, bailiffs, or any other perſons within the ſaid counties. No ſum is fixed; but they are to have *rationabiles expenſas ſuas in eundo, redeundo, et in præfato parliamento pro dictis negotiis morando.* This is a very extraordinary writ, and, as far as I can diſcover, the ſingle one of the kind that ever was granted. Yet from hence Dr. Brady ſuppoſes, that the words *prout alias in caſu conſimili fieri conſuevit* got into antient writs for the expences of knights, citizens, and burgeſſes: a ſtrange ſuppoſition! it being far more likely, that the form of this writ, ſent on a particular occaſion, was taken from thoſe, than that this was the precedent upon which they were grounded.

See Brady's Anſwer to Petyt, p. 141. from the Clauſ. Rot. 42 H. III. m. 1. dorſo.

As for the two clauſes in King John's charter concerning the manner of levying aids and ſcutage, I cannot think they conclude any thing with regard to this matter; the firſt of them ſaying only, that no ſcutage or aid ſhould for the future be impoſed, but by the common council of the kingdom; and the other declaring in what manner the greater and leſſer tenants in chief of the king ſhould be ſummoned on ſuch occaſions. How does it appear, that the latter was intended, as ſome have ſuppoſed, to enumerate *all the members of parliament, all entitled to ſit there?* If there was no diſpute at that time about the method of ſummoning the repreſentatives of counties, cities, and boroughs, there was no need of mentioning any of them in that clauſe, which is not the deſcription of a parliament or common council of the kingdom, but a declaration in what manner, and by what kind of ſummons, certain members thereof, viz. thoſe who held of the king, ſhould be called to the parliament, for the impoſing of ſcutage or other aids.

See the Clauſes in Blackſtone's edition of the charters. Magn. Carta Regis Johan. p. 13. Clauſe 12. p. 14. Clauſe 14.

In the roll of the 51 Edw. III. n. 45. part of which I have cited in a former note to this book, I find theſe words: "Pourceque, *de commune* "*droit du royalme*, de chaſcun comté d'Engleterre ſont et ſeront eleus "deux perſonnes d'eſtre à parlement por le commune de dits comtés." Now, if, as this record teſtifies, two perſons were to be elected to

See the records in the Tower of London.

parliament for the commonalty of every county *by the common law of the realm, de commune droit du royalme*, we muſt look for the beginning of this law, or uſage, in much more ancient times than the reign of King Henry the Third, even in the earlieſt inſtitutions of the Anglo-Saxon government. This expreſſion ſeems to me of very deciſive importance, as to the queſtion before us.

Ibid. *But ſome writs are taken notice of by Mr. Tyrrel, a diligent ſearcher into records on this ſubject, which ſet forth a claim of certain* tenants in ancient demeſne, *before the fifteenth year of Edward the Second, that they ought not to be charged with wages to knights of the ſhire; foraſmuch as they and their anceſtors, tenants of the ſame manor, had, from time beyond memory, been always exempted, by cuſtom, from the expences of knights, ſent by the community of their county to the parliaments of the king, and of his royal progenitors.*

V. Appendix to the ſecond part of his third volume of the Hiſtory of England, p. 60, 61.

The words are, as cited by Mr. Tyrrel: "Quod licet ipſi *et eorum* "*anteceſſores* tenentes de eodem manerio de F. (quod eſt de antiquo do- "minio coronæ Angliæ) *a tempore quo non extat memoria ſemper hactenus* "*quieti eſſe conſueverunt de expenſis militum ad parliamenta noſtra, et pro-* "*genitorum noſtrorum, regum Angliæ, pro communitate dicti comitatus* "*venientium*," &c. Mr. Tyrell gives in Engliſh the reſt of the writ, which goes on thus: "That whereas the ſheriff diſtrains the ſaid "tenants to contribute to the expences of the knights that came to the "laſt parliament, to their great damage, otherwiſe than had been ac- "cuſtomed in all times paſt *(omnibus temporibus retroactis fieri conſuevit)*, "therefore the king commands him that he deſiſt from his ſaid diſtreſs, "and do not compel the ſaid tenants to contribute otherwiſe *quam om-* "*nibus temporibus retroactis*" &c. After which he adds, "Now, "though this writ be entered without any king's name, or date, yet it "appears at the bottom, that it was iſſued out by G. L'Eſcrope then "chancellor, and William de Herlſton, clerk of the Chancery; and this "muſt have been before the fifteenth year of Edward the Second, be- "cauſe it appears by the cloſe rolls of that year (Rot. Clauſ. 15 Edw. II. "m. 37. dorſ. in ſcedulâ), that in December the great ſeal was deli- "vered to William D'Ayremyn, under the ſeals of William de Clyffe, "and the ſaid William de Herlſton, clerks of Chancery, who are often "mentioned in our records to have been keepers of it *pro tempore*, till "the ſecond year of Edward the Third, when the ſaid William de "Herlſton had the ſole cuſtody thereof committed to him. There are "other writs of this kind upon the cloſe rolls, as particularly one di-

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" rected to Sir John de Cobham, and four other knights therein named, Clauſ. 50 Edw. III. par. ii. m. 19. dorſo.
" reciting, " That whereas Simon, archbiſhop of Canterbury, claims,
" as well for himſelf as his predeceſſors, and their tenants hitherto,
" *a tempore quo non extat memoria*, certain lands held in *gavelkind* in the
" county of Kent, which ought to be free from the expences of knights
" coming to the parliaments of that king, as well as thoſe of his pro-
" genitors; and then it concludes with a *ſuperſedeas* to the ſaid ſheriff,
" not to moleſt the ſaid tenants, until ſuch time as the king be further
" informed, and that he, by the advice of his council, hath ordained,
" what is to be done in the premiſes." From both theſe writs we may
" draw theſe concluſions, firſt, that there was at the time of the grant-
" ing theſe writs a claim by *preſcription* time out of mind, allowed for all
" tenants in antient demeſne, as alſo for thoſe who held of the archbiſhop
" in *gavelkind*, to be exempted from contributing to the wages of knights
" of the ſhire, or elſe theſe petitions and the writs upon them had been to
" no purpoſe; for you muſt note, that all tenants in *antient demeſne* and
" in *gavelkind* were made ſo before the conqueſt, and therefore might
" well plead a *preſcription*, and were it not that I ſhould be tedious, I
" could cite *ſeveral other writs of this kind*, as alſo pleas of certain towns
" to this purpoſe, and that not long after the time Dr. Brady ſuppoſes the
" commons were again ſummoned to parliament."

Ibid. *With regard to cities and boroughs, there are likewiſe extant two claims, made in the reigns of Edward the Second and Edward the Third, the proceedings upon which ſeem deciſive of the ſenſe of that age, concerning the antiquity of the cuſtom of citizens and burgeſſes coming to parliament, and from towns that were held under ſubjects, not immediately of the crown; I mean the claims of the towns of St. Albans and Barnſtaple,* &c.

The claim of the town of St. Albans, here-mentioned, is tranſcribed at length by Mr. Madox, in his Hiſtory of the Exchequer, from the parliament rolls of the eighth year of King Edward the Second, and it will be proper to give a tranſcript of it here. " Ad petitionem burgenſium villæ V. Madox's Hiſt. of the Excheq. c. 17. p. 521.
" de S. Albano, ſuggerentium regi, quod licet ipſi teneant villam prædictam
" de rege in capite, et ipſi, ſicut cæteri burgenſes regni, ad parliamenta
" regis, cum ea ſummoniri contigerit, per duos comburgenſes ſuos venire
" debeant, *prout totis retroactis temporibus venire conſueverunt*, pro omni-
" modis ſervitiis regi faciendis; quæ quidem ſervitia iidem burgenſes et
" anteceſſores ſui burgenſes villæ prædictæ, tam tempore domini Edwardi
" nuper regis Angliæ, patris regis, *et progenitorum ſuorum*, quam tempore

" regis nunc, ſemper ante inſtans parliamentum, ut præmittitur, præſti-
" terunt. Nomina quorum burgenſium ſic pro dictâ villâ ad parliamenta
" regis venientium in rotulis cancellariæ ſemper irrotulata fuerunt.
" Nihilominus vicecomes regis comitatûs Hertfordiæ, ad procurationem
" et favorem abbatis de Sancto Albano et ejus conſilium, burgenſes præ-
" dictos præmunire, ſeu nomina eorum prout ad ipſum pertinuit, re-
" tornare, ut ipſi ſervitium ſuum prædictum facere poſſent penitus re-
" cuſavit, in contemptum regis et burgenſium prædictorum præjudicium,
" et exhæredationis periculum manifeſtum, ſuper quo petunt remedium
" opportunum. " R. eſt per conſil.

" Scrutentur rotuli &c. de canc. ſi temporibus *progenitorum regis*
" burgenſes prædicti ſolebant venire, vel non; et tunc fiat eis ſuper hoc
" juſtitia, vocatis evocandis ſi neceſſe fuerit."

See Petyt, Brady, Tyrrel, and others.

V. Brady's Anſwer to Petit, p. 38.

A great deal has been ſaid by ſeveral learned writers about this record; and indeed the matter of it is extremely important, with regard to many points in the diſputes that have ariſen about our ancient conſtitution. Dr. Brady being deſirous to elude the force of it againſt the hypotheſis which he had laid down (viz. that no burgeſſes were ſummoned to parliament before the forty ninth of Henry the Third) ſays, *that thoſe of St. Albans, as appears by the words of their petition to the council, claimed not, nor preſcribed to come to parliaments merely as from a borough, but as from a town that held in chief of the king; and this ſervice was incident to their tenure, and was ſuch as the king's progenitors had accepted in lieu of all ſervices due by reaſon thereof.* Now, though we ſhould admit all this to be true, it ſtill proves againſt him, that *ſome burgeſſes* came to parliament before the forty ninth of Henry the Third, viz. *all who held in chief of the king:* for the *progenitors* of the father of Edward the Second muſt at leaſt mean his grandfather and great grandfather King John and King Henry the Second: and a long uſage is implied in the words *prout totis retroactis temporibus venire conſueverunt.* Yet it ſeems to make good another part of his ſyſtem, viz. *that none but tenants in chief were members of parliament.* Let us then conſider how far that inference from it can be maintained. To render it concluſive we muſt ſuppoſe, that, if in fact the burgeſſes of this town were not tenants in chief, they could not have been admitted to come to parliament, either at any time before, or ſoon after this time.

V. Rot. Clauſ. 35 Edw. I. m. 14. dorſo.

But it appears from the cloſe rolls, that expences were allowed to burgeſſes of St. Albans for coming to parliament in the thirty fifth year of Edward the Firſt, and with the clauſe *prout alias in caſu conſimili fieri conſuevit*, which implies an old cuſtom. We find, indeed, by a writ to the

the ſheriff of Hertfordſhire in the fifth year of Edward the Second, that a diſpute then aroſe, whether the town was a borough, or not, and that the abbot and bailiffs were ſummoned to Chancery upon that queſtion; but it was not determined till the eighth year of that king, in conſequence of the petition recited above. And though no other anſwer appears in that record, than that the rolls ſhould be examined, to ſee whether the burgeſſes uſed to come to parliament in the times of the king's progenitors, it may be concluded, that, upon the examination, judgement was given for them; becauſe there is a writ on the cloſe roll of the eighth year of Edward the Second, for paying wages at the rate of two ſhillings a day to two burgeſſes of St. Albans; and another of the ſame nature on the cloſe roll of the ſecond of Edward the Third. And in the firſt year of the ſame reign there are letters patent confirming a certain indenture, between the abbot of St. Albans and the burgeſſes of that town, wherein there is contained a final agreement of all quarrels and diſputes between the ſaid abbot and burgeſſes; and the abbot does there acknowledge, that the ſaid burgeſſes, whoſe names are there particularly ſet down, might chuſe from among themſelves two burgeſſes to go to every parliament; "*Puiſſent d'eux-memes elire deux burgois d'aler "au chacun parlement.*" All theſe records I have carefully examined myſelf in the originals at the Tower.

Rot. Clauſ. 8 Edw. II. m. 13. dorſo.
Rot. Clauſ. 2 Edw. III. m. 16. dorſo.
Pro expenſ. burgenſium.
Rot. Pat. 1 Edw. III. m. 28. p. 2.

It is therefore very evident, that the right of the town of St. Albans to ſend repreſentatives to parliament, according to their petition, was allowed by the council of King Edward the Second, and by that of his ſon; nay, by the abbot himſelf, who had firſt diſputed that privilege. And yet it is certain, that the burgeſſes *held of the abbot, and not in chief of the king*. We are informed by Mr. Madox, that, in Domeſday-book, the town of St. Albans is placed among other towns and lands of the abbey, in theſe words *terra eccleſiæ S. Albani:* He further ſays, "I can-"not find by any of the moſt ancient Revenue-rolls (though I have "ſearched many of them purpoſely upon this matter) that it was a "demeſne-town belonging to the king, or rendered to the king (when "the *ſedes abbatialis* was full) any ferm, aid, tallage, or other duty, as all "the reſt of the king's towns did, from time to time. A ſure token "that the townſmen *did not hold it immediately of the king.*" What then becomes of Dr. Brady's Hypotheſis, *that none but tenants in chief came to parliament*, and that the burgeſſes of St. Albans might be entitled to that privilege *as tenants in chief*, but could not have enjoyed it upon any other claim? Mr. Madox has ſhewn, *they were not tenants in chief*; and yet it is proved, by the records above-cited, that their right of coming

See Madox's Hiſt. of the Exchequer, p. 522. c. 17.

coming to parliament was allowed as a privilege, *which they had poſſeſſed from time immemorial.* Mr. Madox indeed ſuppoſes, " *that the town of* " *St. Albans was granted to the abbey by one of the ancient kings of Eng-* " *land: the abbot and convent held the town* in capite, *or immediately of* " *the king* (in burgage) *as parcel of the endowment of the abbey, and they* " *held the town or burgeſſes in demeſne, or (if you pleaſe) the burgeſſes were* " *demeſne-men of the Abbey.*" But admitting this ſuppoſition, which is only a mere conjecture (for he had ſaid before, *that he found no proof in any of the moſt ancient Revenue-rolls that it was a demeſne-town belonging to the king)* it ſtill appears, that, although the abbot held immediately of the king, and might have a right to ſit in parliament on that account, as a tenant in chief, yet the town held *of him*, and *not immediately of the king:* the townſmen were *his demeſne-men*, not *tenants in chief*, or *demeſne-men of the crown.* And therefore this tranſaction, not only diſproves the aſſertion of Dr. Brady, that none but tenants in chief had a right of ſitting in parliament before the forty ninth of Henry the Third, but alſo ſhews he is wrong in the account that he gives of the foundation of the right of cities and boroughs to ſend repreſentatives to that aſſembly in and after the twenty third of Edward the Firſt, before which time he denies that they ever had been ſummoned in a regular manner. His words are theſe: " Having thus proved the time when, " and the cauſe why, citizens, and burgeſſes, and the tenants of the " king's demeſnes, were at firſt ſummoned to parliament, we ſhall pro- " ceed to diſcover, what cities and burghs ſent their repreſentatives, " or citizens and burgeſſes, upon ſuch ſummons. The anſwer to this is " very ſhort, *That they were only the* dominicæ civitates *and* burgi regis, " *the king's demeſn cities and burghs, ſuch as had charters from the king,* " *and paid a fee-farm rent in lieu of the cuſtoms, and other advantages and* " *royalties that belonged to the crown,*" &c.

V. Hiſt. of the Exchеq. p. 523. c. 17.

Now it plainly appears, that the borough of St. Albans does not anſwer this deſcription in any reſpect. *It was not a demeſn city or burgh of the king in the twenty third year of Edward the Second. It had no charter from the crown, nor did it pay a fee-farm rent in lieu of the cuſtoms,* &c. *that belonged to the crown.* The Hypotheſis of the Doctor is therefore evidently as falſe with regard to the *right* as to the *time* of citizens and burgeſſes coming to parliament. And it cannot be ſuppoſed, that the burgeſſes of this town were ſummoned to parliament without any right, by the favour of the ſheriff, after the eighth of Edward the Second; becauſe it appears by the records abovementioned, that their claim had been diſputed, and judicially determined: ſo that here was no room for partiality in the ſheriff,

ſheriff, as in other caſes, where no diſpute had ariſen. The king's council, before which the cauſe had been tried, would have refuſed to admit the return of ſuch burgeſſes to ſubſequent parliaments, if their right to be ſummoned had not been clearly made out: but, if their claim had depended on their being *tenants in chief of the crown*, it is evident, *they could not have had any ſuch right*, as they were *not ſuch tenants*. It is true, that, in their petition they ſay, *they held their town in chief of the king*, and ſpeak of their coming to parliament *as a ſervice that was incident to their tenure*: but, though this was a falſe ſuggeſtion, yet their right to come to parliament by ancient uſage and preſcription, *ſicut cæteri burgenſes regni, prout totis retroactis temporibus venire conſueverunt*, might be very good. And therefore the anſwer was, *Scrutentur rotuli* &c. *de cancellariâ ſi temporibus progenitorum regis burgenſes prædicti ſolebant venire, vel non. Et tunc fiat eis ſuper hoc juſtitia, vocatis evocandis, ſi neceſſe fuerit.* This was putting the cauſe entirely on *preſcription*, not on their being proved to be *tenants in chief of the crown*. Domeſday-book and the Exchequer records ſhould have been ſearched, inſtead of the Chancery rolls, if *that* had been the queſtion. In fact it appears, that they continued to hold immediately of the abbot, not of the crown, and yet came to parliament, with other burgeſſes, after this time; the abbot himſelf being obliged to allow their right to that privilege, which in all probability he would not have diſputed, if they had not involved it with another unwarrantable pretenſion, which he could not admit. Mr. Madox ſays, *he had not yet found, that any town, city, or burgh in England, did in ancient time hold of the king, or of any other lord, upon theſe terms, viz. to be quit of all preſtations and ſervices by ſending burgeſſes to parliament.* He might likewiſe have added, that no *tenant in capite* held on ſuch terms. And therefore the claim of theſe burgeſſes to hold *in capite* of the king by the ſervice of coming to parliament *pro omnimodis ſervitiis regi faciendis*, was undoubtedly falſe. Accordingly it was rejected; but yet their right to come to parliament was allowed and eſtabliſhed. I would alſo obſerve, that their complaint to the council againſt the ſheriff of Hertfordſhire, for having refuſed to return them, though the names of the burgeſſes ſent by them to parliament had always been enrolled in the Chancery rolls, overturns the poſition advanced by Dr. Brady, and ſupported by many others, *that it was left to the ſheriff of every county to name and direct which were boroughs, which not, by thoſe indefinite and general words in the writ,* "*de qualibet civitate duos cives, et* "*de quolibet burgo duos burgenſes* &c. *eligi facias.*" For if ſheriffs had really a right to do this, and no rule to proceed by, but their own arbitrary

See Hiſtory of the Exchequer. p. 522. note.

See Brady on Boroughs, p. 52.

bitrary diſcretion, the townſmen of St. Albans had no reaſon to complain, that the ſheriff of Hertfordſhire had refuſed to return any burgeſſes from their town, even though it had been true that they held it of the king. But they ſpeak of his refuſal as a grievous offence, *in contemptum regis, et burgenſium prædictorum præjudicium, et exhæredationis periculum manifeſtum, ſuper quo petunt remedium opportunum.* Indeed to ſuppoſe ſuch a power in that officer is repugnant to reaſon, and expreſly contradicts the words of a ſtatute made in the fifth of Richard the Second, which declare, that if any ſheriff ſhall from thenceforth be negligent in making his returns of writs of the parliament, *or leave out of the ſaid returns any cities or boroughs, which be bound, and of old time were wont to come to the parliament, he ſhall be puniſhed in the manner as was accuſtomed to be done in the ſaid caſe in the ſaid time paſt.* The ſheriffs, in fact, did frequently neglect to return any burgeſſes for the poorer and meaner boroughs, which could not eaſily bear the charge of their wages; and this was connived at, when it was done on good reaſons: but ſtill it evidently appears by the ſtatute here-cited, *that they had no right to do ſo,* and that when they ventured to do it *improperly* or *injurioufly*, they had been *often* complained of and puniſhed for it, *before the making of that ſtatute.* They muſt therefore have had ſome rule to direct them therein: and as they certainly had no power to create a new borough, ſo they could not be juſtified in not making a return from any of thoſe, *which were bound, and of old time were wont to come to the parliament*, unleſs by loſs of trade, or from any other cauſe, they were ſo much decayed, as not to be able any longer to ſupport the expence of maintaining their members. In that caſe alone it might be equitably judged, *that they were not bound to come to parliament propter debilitatem eorum et paupertatem.* And the ſheriff might be allowed to determine of *this exemption*, upon his own knowledge, but at his own peril. Mr. Tyrrel has well obſerved on the words of the ſtatute above-cited, that *if the firſt conſtant appearance of citizens and burgeſſes in parliament were but in the twenty third of Edward the Firſt, from that time to the fifth of Richard the Second, was not eighty five years*; *and* THAT, *being within the memory of many men then alive, could not be called* OF OLD *or* ANCIENT TIME, *in the French*, D'ANCIENTÉ. Nevertheleſs there is reaſon to believe, that the ſame form of ſummons had not always been uſed; becauſe it appears, that, in the forty ninth of Henry the Third, the writs were not ſent to the ſheriffs, but directly to the cities and boroughs.

See Tyrrel's Appendix to his Hiſtory of England, p. 193.

Having now conſidered the claim of the town of St. Albans, I ſhall tranſcribe ſome records in the Tower of London concerning a petition

in the Tower of London concerning a petition in parliament to King Edward the Third, from the town of Barnſtaple in Devonſhire, wherein they ſet forth, that, among other privileges granted to them by a charter of King Athelſtan, they had *from that time* enjoyed the right of ſending two burgeſſes to ſerve for them in parliament. And firſt I ſhall give an extract from the writ of inquiſition founded on that petition, which is recited therein. "Sciatis, quod, cum nuper ad proſecu- "tionem burgenſium villæ de Barnſtaple in com. Devon. per peti- "tionem ſuam *coram nobis et conſilio noſtro exhibitam* nobis ſupplicantium, "*ut cum villa prædicta, à tempore cujus contrarii memoria non exiſtit,* "*liber burgus fuerit, iidemque burgenſes, et eorum anteceſſores, burgenſes* "*villæ prædictæ diverſis libertatibus et liberis conſuetudinibus, per cartam* "*celebris memoriæ D. Athelſtani, dudum regis Angliæ, progenitoris noſtri,* "*quæ ad liberum burgum pertinent à tempore confectionis dictæ cartæ uſi* "*fuerunt et gaviſi,* in hoc, viz. quod tenementa ſua in eodem burgo in "teſtamento ſuo in ultimâ voluntate ſuâ quibuſcunque voluerint legare, "et majorem de ſe ipſis, coram quo omnia placita dictum burgum et "ſuburbium ejuſdem tangentia placitari et terminari debeant, eligere, "*ac ad ſingula parliamenta noſtra, et dictorum anteceſſorum noſtrorum, duos* "*burgenſes pro communitate ejuſdem burgi mittere,* nec non in ſingulis "taxationibus &c. *conſueverunt:*" therefore the king ordered an inqueſt to be made into the truth of the facts therein alledged, and particularly *ſi carta illa fuerit amiſſa,* as the petitioners had ſet forth, and whether it would be proper to grant them another, confirming to them the ſame liberties, as they had deſired.

See Eſcheat Bundle 18 Edw. III. dated June 23. Regn. 14. n. 100.

In the return to this the jurors ſay, "*Burgenſes dictæ villæ ad* "*ſingula parliamenta duos burgenſes pro communitate dicti burgi mit-* "*tere ſolebant*; item dicunt, *quod nihil eis conſtabat de carta D.* "*Athelſtani, dudum regis Angliæ, prædictis burgenſibus, ſeu eorum* "*prædeceſſoribus, de diverſis libertatibus ſeu conſuetudinibus prædictis,* "*ut aſſerunt, conceſſis.*" This not ſatisfying the burgeſſes, they obtained a writ *ad quod damnum,* to enquire *ſi prædicti burgenſes dictas libertates eis per cartam prædicti Athelſtani, ut prædicitur, conceſſas, a tempore prædicto uſi fuerunt et gaviſi, et ſi carta illa in formâ prædictâ fuerit amiſſa; nec non ad quod damnum ſeu præjudicium noſtrum aut alterius cujuſcunque cederet, ſi nos dictas libertates eiſdem burgenſibus per cartam prædicti Athelſtani, ut aſſerunt, conceſſas, nec non prædictas libertates per eos de novo petitas, prout ſuperius continentur, per cartam noſtram concedamus ſibi et hæredibus et ſucceſſoribus ſuis in perpetuum poſſidendas; et ideo vobis mandamus, quod ad certos dies et locos, quos vos tres, vel duo veſtrum*

Ibidem.

Dated 18, May. 17 Edw. III.

veſtrum, ad hoc provideritis, inquiſitionem illam ſuper præmiſſis et ea tangentibus in formâ prædictâ faciatis, &c.

Dated 17. Edw. III.

The return of this writ is as follows: " Inquiſitio capta apud Barnſta-
" ple coram Hamone de Derworthy et Joan. de Baumfeld, *juſticiariis*
" *D. regis ad inquiſitionem illam capiendam* unà cum Joanne de Ston-
" ford et Ricard. de Hankeſton, in præſent. Walteri de Horton, *Vice-*
" *comitis Devon.* die Sabbat. &c. an. regni Edw. regis Angliæ tertii 17,
" &c. per ſacramentum R. de Wolfe &c. qui dicunt ſuper ſacramentum
" ſuum, quod villa de Barnſtaple eſt liber burgus, *et fuit a tempore quo*
" *non extat memoria. Item dicunt quod burgenſes villæ prædictæ, et eorum*
" *anteceſſores diverſis libertatibus et liberis conſuetudinibus per cartam cele-*
" *bris memoriæ D. Athelſtani, dudum regis Angliæ, progenitoris D. regis*
" *nunc, quæ ad dictum burgum pertinent, a tempore confectionis cartæ præ-*
" *dictæ ſemper hactenus uſi fuerunt et gaviſi*, et adhuc gaudent et utun-
" tur, videlicet quod tenementa ſua, &c. &c. *ac ad ſingula parliamenta*
" *D. regis duos burgenſes pro communitate ejuſdem burgi mittere*, nec non
" in ſingulis taxationibus &c. *conſueverunt*. Dicunt etiam, *quod prædicta*
" *carta, de prædictis libertatibus et conſuetudinibus, eiſdem burgenſibus per*
" *prædictum D. Athelſtanum facta, caſualiter fuerit amiſſa*. Item dicunt
" quod non eſt ad damnum ſeu præjudicium D. regis aut alterius cujuſ-
" cunque, licet D. rex per cartam ſuam omnes libertates prædictas eiſ-
" dem burgenſibus et hæredibus &c. per cartam prædict. Athelſtani
" prius conceſſas concederet in perpetuum poſſidendas."

Nevertheleſs another writ of the following year, after reciting the proceedings had upon the two former writs, ſays, that, upon complaint having been made, that the latter return had been artfully and unduly obtained, " Nos advertentes, quod hujuſmodi libertates abſque gravi
" præjudicio noſtro et damno et præjudicio aliorum non poſſunt concedi
" hominibus ſupradictis, *præſertim cum dicta villa de nobis teneatur in*
" *capite, ut accepimus*, et cuſtodia ejuſdem, nomine cuſtodiæ, ad nos et
" hæredes noſtros devolvi, firmaque comitatus prædicti in parte diminui,
" et alia incommoda tam nobis, quam aliis, evenire poſſent, volenteſque
" eo prætextu ſuper hiis plenius informari, aſſignavimus," &c.

The return to this inquiſition finds, that *Joannes de Audley* held this borough of the king *in capite per baroniam*, contradicts the finding of the former returns in many points, and particularly ſays, " *Quod nichil eis*
" *conſtat nec conſtabat de cartâ D. Athelſtani dudum R. Angliæ, per quam*
" *prædicti burgenſes prætendunt ſibi et eorum prædeceſſoribus quaſdam fuiſſe*
" *libertates conceſſas.*" But with regard to their right of ſending burgeſſes to ſerve for them in parliament *from time immemorial*, which the two former

former returns had acknowledged and confirmed, it ſays nothing. And we find that they continued to ſend them uninterruptedly after this time, without any new charter or franchiſe granted to them, but purely by *preſcription*.

Now, granting that the pretended charter of Athelſtan, the exiſtence of which is admitted by the ſecond of theſe returns, but left doubtful by the firſt and laſt, did never exiſt, yet ſtill theſe records are of great importance to the queſtion of which I am treating. For, if no burgeſſes had been ſent to parliament before the forty ninth year of King Henry the Third, how is it poſſible that the *Concilium Regis*, within fourſcore years after that remarkable epocha, viz. in the ſeventeenth of Edward the Third, ſhould have ſuffered that prince to order an inquiſition to be made into the truth of an allegation ſo apparently falſe, as that the burgeſſes of Barnſtaple had enjoyed a right of ſending two members to ſerve for them in all the parliaments of his royal predeceſſors *from the time of King Athelſtan?* or what evidence could induce jurors, upon the ſecond inquiſition before two of the king's juſtices and the ſheriff of Devon, to find a fact which the whole county, and indeed the whole kingdom, muſt have been able to contradict from publick notoriety? The abſurdity would be ſtill greater, if the practice of ſummoning burgeſſes to parliamentary meetings be dated from the twenty third of Edward the Firſt, as it is by many writers. But the clear inference from theſe proceedings appears to be, that the cuſtom of ſending members from cities and towns to parliaments, or great councils, was then known to be ancient; and the queſtion was whether Barnſtaple was entitled to that privilege, either by charter or preſcription. In the final iſſue we find, that, with regard to the charter, which the burgeſſes of that town pretended to have loſt, ſufficient proof was not given; and therefore the other privileges, which they claimed in virtue thereof, were not confirmed or renewed: but this of ſending repreſentatives to ſerve for them in parliament was admitted to be good, *from long uſage and preſcription*, though it was determined that they did not hold immediately of the king, but were the tenants of John de Audley, one of his barons, who held the borough of him *in capite* by baronial ſervice. From whence it is evident, that the right of ſending members to parliament was not confined to a *tenancy in chief of the crown*, but might belong to *ſubvaſſals*.

I ſhall conclude this note with a paſſage from the great antiquary, Mr. Lambard, in his Archaionom. "Now as theſe written authorities" (viz. the Saxon laws he had quoted) "do undoubtedly confirm our aſ-

" ſertion of the continuance of this manner of parliament, ſo is there alſo " unwritten law, or preſcription, which does no leſs uphold the ſame: " for it is well known, that in every quarter of the realm a great many " boroughs do yet ſend burgeſſes to the parliament, which are neverthe- " leſs ſo antient, and ſo long ſince decayed and gone to ruin, that it can- " not be ſhewed they have been of any reputation ſince the conqueſt, and " much leſs that they have obtained this privilege by the grant of any " ſucceeding king: *ſo that the intereſt which they have in parliament* " *groweth from an antient uſage before the conqueſt, whereof they cannot* " *ſhew any beginning.*"

Ibid. *By a ſtatute of the fifth year of Richard the Second it is enacted,* " *that all and ſingular perſons and commonalties, which from hence-* " *forth ſhall have the ſummons of the parliament, ſhall come from hence-* " *forth to the parliaments in the manner as they are bound to do, and* " *have been accuſtomed, within the realm of England, of old times,*" &c.

Beſides this remarkable teſtimony of the whole legiſlature in the reign of Richard the Second, to the antiquity of the cuſtom of the commons coming to the parliament, we have a petition of the commons in the ſecond parliament of the reign of Henry the Fifth, which ſets forth to that prince, " that, as it hath ever been their libertie and freedom, " that there ſhould no ſtatute nor law be made, unleſs they paſt thereto " their aſſent, conſidering that the commune of your land, the which is " *and ever hath been* a member of your parliament, be as well aſſenters as " petitioners," &c.

See Harley's Mſs in the Britiſh Muſeum, claſs II. preſs 1. ſhelf B.

P. 280, 281. " *And if any perſon of the ſame realm, which from henceforth* " *ſhall have the ſaid ſummons, be he archbiſhop, biſhop, abbot, prior, &c.* " *do abſent himſelf, and come not at the ſaid ſummons (except he may* " *reaſonably and honeſtly excuſe himſelf to our lord the king) he ſhall be* " *amerced and otherwiſe puniſhed, according as of old times hath been* " *uſed to be done within the ſaid realm in the ſaid caſe.*"

In the twelfth of Richard the Second, the abbot of St. James's Northampton, being ſummoned to parliament, petitioned to be diſcharged, becauſe he was not a tenant *by barony, nor in chief of the king.* The words are theſe: " Non tenet *per baroniam*, nec *de rege in capite*; " ſed tantum *in puram et perpetuam eleemoſynam*; et nec ipſe abbas, nec " predeceſſores ſui, fuerunt ad parliamentum citati huc uſque. *Unde* " *petit remedium et habuit.*" Again, in the twenty ſixth year of Edward

the Third, the abbot of Leiceſter was diſcharged from all attendance in parliament on the like ſuggeſtion, becauſe he held not of the king *per baroniam ſeu alio modo, per quod ad parliamenta ſeu concilia noſtra venire teneatur.* V. Rot. Pat. 26 Edw. III. p. 2. m. 22.

I would obſerve on theſe records, that, as before the reign of William the Conqueror all eccleſiaſtical dignities, as well thoſe which held of the king as others, were *ad puram et perpetuam eleemoſynam*; and as the alterations made by William affected only thoſe which held immediately of the crown, it is no wonder that men who were poſſeſt of ſuch dignities *not holden of the crown*, and who much deſired an exemption from all ſecular ſervices, ſhould not acquieſce in an extenſion of that alteration; and therefore theſe abbots very properly petitioned againſt being ſummoned to parliament contrary to the privilege of their tenure; and the king anſwered very juſtly to the petition of the latter, that *nolentes illum indebite vexari* he diſcharged him from that ſervice. But nothing can be inferred from hence to prove the poſitions, which ſome writers have laid down, that no freeholders had antiently a ſhare in the legiſlature, except *tenants in chief*, and that all ſervice in parliament was then conſidered no otherwiſe than as a trouble and burthen, which every member of parliament deſired to be exempt from, and endeavoured to avoid.

The ſtatute itſelf, which is the ſubject of this note, has been alledged as an argument, to ſhew how unwillingly our parliaments were attended, when it was neceſſary to enforce the performance of that duty by a particular law: but the diſturbed and tumultuous ſtate of thoſe times, when it was dangerous to paſs from one part of the realm to another, may better account for this ſtatute; and that the chief object of it was to enforce the attendance of the *ſpiritual barons*, I think very probable; as we know, that their deſire of a total ſeparation from the laity in all acts of government, made them remiſs in the performance of their duty.

Indeed, ſome time before, namely, in the eighteenth year of Edward the Third, notice is taken in the record of parliament, *that ſundry of all eſtates were abſent from the parliament and convocation then aſſembled:* "*at which* " (ſays the record) *the king did no leſs muſe, than he was thereat offended:* " wherefore he charged the archbiſhop, for his part, to puniſh the de- " faults of the clergy, *and he would do the like touching the parliament.*" (See Cotton's Abridgement of the Records, p. 43.) But the king's ſurpriſe on this occaſion, as well as the offence that it gave him, ſhews, that ſuch abſence was unuſual, and muſt certainly have had ſome extraordinary cauſe. It was cuſtomary in thoſe times, if the parliament was not *quite full* at the firſt meeting, to adjourn for a day or two, till the abſent members came in; and by the records it appears, that the

lords

V. Prynne's Preface to Cotton's Abridgement of the Records in the Tower.

lords ſometimes, and the commons frequently, were called by name the firſt day of the parliament's ſitting, and ſuch of them as were abſent without juſt cauſe were both blamed and fined. Even in our days it is neceſſary to enforce the attendance of members by *calls of the houſe*, and ſometimes by the puniſhment of thoſe who diſobey them.

P. 281. *But beſides theſe authorities, drawn from ſtatutes and records, very evident indications of the preſence of the people in the national councils, and of their being conſtituent parts thereof, though, indeed, in a confuſed, diſorderly manner, are to be found in ſome ancient hiſtories, and contemporary accounts of tranſactions in parliament, during the times which I write of; viz. from the death of Edward the Confeſſor to that of Henry the Second.*

Gervaſe of Canterbury, ſpeaking of the promotion of Lanfranc to that metropolitan ſee, in the reign of William the Conqueror, ſays it was done, "Eligentibus eum ſenioribus ejuſdem eccleſiæ, *cum epiſcopis et* "*principibus, clero et populo Angliæ*, in curia regis" Here the *clerus* et *populus* are mentioned ſeparate and diſtinct from the *epiſcopis et principibus*, and therefore cannot, by any natural conſtruction, be underſtood to mean the ſame perſons. Moreover, in the account of the ſame tranſaction, publiſhed at the end of Taylor's Gavelkind, it is ſaid, that the king committed to Lanfranc the church of Canterbury, "*conſenſu et* "*auxilio* omnium baronum ſuorum, omniumque epiſcoporum et abba-"tum, *totiuſque populi Anglicani.*" Theſe words ſeem to afford a very evident teſtimony, that *the people* were *preſent* in theſe parliaments, and *acted* therein, *conjointly with all the ſpiritual and temporal barons.* But in the Chronicle of Litchfield, and likewiſe in Roger de Hoveden, mention is made of one that was very particular. The words of the Chronicle of Litchfield are theſe: "Anno Gulielmus regni ſui quarto, apud Lon-"donias, *conſilio baronum ſuorum fecit ſummoneri per univerſos Angliæ* "*comitatus omnes nobiles, ſapientes, et ſuâ lege eruditos,* ut eorum leges et "conſuetudines audiret &c. Under *per præceptum regis Willielmi electi* "*ſunt de ſingulis totius Angliæ comitatibus* XII *viri ſapientiores*, quibus ju-"rerando injunctum fuit, coram rege Willielmo, ut quoad poſſent recto "tramite, neque ad dextram neque ad ſiniſtram partem divertentes, legum "ſuarum conſuetudinem et ſancita patefacerent, nil prætermittentes, vel "prævaricando mutantes." The account in Roger de Hoveden is to the ſame effect, with very little difference in the expreſſions. The Lord Chief Juſtice Hale ſays, in his Hiſtory of the Law, *This appears to be as ſufficient and effectual a parliament as ever was held in England.*

Wilkins Leg. Anglo-Saxon. p. 216. & Seldeni Not. ad Eadm. p. 171.

V. Hoved. Annal. f. 343.

P. 104. 107.

Neverthe-

Nevertheleſs it muſt be noted, that the election of *twelve men from every county* does not appear to have been uſual in other parliaments, or great councils: at leaſt we have no account, in any record or hiſtory, of juſt *that number* having been ſent upon any other occaſion.

Eadmer, who lived in the reign of William Rufus, has given an account of a parliament held under that prince, on an extraordinary occaſion, viz. for the determining of a diſpute between the crown and Archbiſhop Anſelm, on a queſtion of great importance to the church and the ſtate. He calls it *placitum, quod totius regni adunatione apud Rockingham habitum eſt.* He was preſent in it himſelf, and has ſet down all the particulars of what was done there. The general deſcription of the aſſembly is in much the ſame terms, as other Hiſtorians of that age were accuſtomed to uſe in deſcribing our parliaments: *Epiſcopis, abbatibus, cunctiſque regni principibus una coëuntibus*, &c. But beſides theſe he takes notice of a *great multitude* of monks, clergymen, and laymen, who were *preſent*, and *aſſiſtant*, and to whom, as well as to thoſe of a ſuperior rank, the archbiſhop addreſſed his diſcourſe. "Anſelmus autem epiſcopis, "abbatibus, et principibus ad ſe à regio ſecreto vocatis, "*eos et aſſiſtentem monachorum, clericorum, laicorum, numeroſam multitudinem hac* "*voce alloquitur.*" From what follows it is evident, that he ſubmitted the queſtion, for the diſcuſſion of which the parliament had been called, to the determination *of the whole aſſembly.* "*Omnes*, dico, *qui hic congregati eſtis in nomine domini precor intendite*, "*et cauſæ, propter quam ventilandam adunati eſtis, pro viribus opem veſtri* "*conſilii ferte.*" He applied indeed more particularly to his brethren, the biſhops; "Omnes itaque, *ſed vos præcipue, fratres et coëpiſcopi mei*, "precor et moneo, quatenus iſtis diligenter inſpectis, ſtudioſius, ſicut vos "decet, quo inniti queam *mihi conſilium detis.*" But this no more excluded the reſt of the aſſembly from giving their opinion on the queſtion in diſpute, than it did the temporal barons. On the contrary, the beginning of this very paragraph ſays, that *all* were deſired to *hear and conſider it, in order to form their advice to Anſelm upon it.* It appears, that, at firſt, all the ſpiritual and temporal lords, and perhaps other *chief men*, comprehended under the word *principes*, here uſed by Eadmer, were with the king in an inner room: from whence they were *called out into the church of the caſtle*, which was the place of *the general aſſembly*, to hear the queſtion propoſed to them by Anſelm. "Anſelmus "autem *epiſcopis, abbatibus, et principibus ad ſe à regio ſecreto vocatis*, "eos et aſſiſtentem monachorum, clericorum, laicorum, multitudinem, "hac

V. Eadm. hiſt. nov. l. i. p. 26, 27.

" hac voce alloquitur." And they occaſionally went backwards and forwards, ſeveral times, in the courſe of the deliberation. " *Omnes* " igitur *aſſidentes* oppido turbati, *cum magno tumultu ſurrexerunt*, &c. " Quibus dictis *ad regem reverſi ſunt.*" And afterwards, " Factâ itaque " longâ morâ *redeunt epiſcopi cum nonnullis principibus à rege* dicentes," &c. And again, " *reverſi ad regem* perſuaſerunt inducias nullâ ratione " dandas, &c. Cum igitur (epiſcopus Dunelmenſis) regi perſuaſiſſet " quæſitas inducias Anſelmo non eſſe dandas, *comitatus quam pluribus*, qui " verba ſua ſuo fulcirent teſtimonio, *ad virum ingrediens* ait, Audi queri- " moniam regis contra te," &c. And upon hearing Anſelm's anſwer, they again returned to the king, " Quibus auditis, aſpicientes ſe invicem, " nec invenientes quid ad iſta referrent, *ad dominum ſuum reverſi ſunt.*" While they were with the king, they, at firſt, conſulted together with ſome regularity; but afterwards talked to one another, without order, and in ſmall, ſeparate parties. " *Ad quæ rex vehementer* " *iratus cum epiſcopis atque principibus intentiſſime quærere cæpit quid* " *dictis ejus objicere poſſet, nec invenit. Scandalizati ergo inter ſe abin-* " *vicem ſunt in partes diviſi, et hic duo, ibi tres, illic quatuor in unum con-* " *ſiliabantur*," &c. Theſe Eadmer calls afterwards *conciliabula*, and certainly they were not agreeable to the regular forms either of a council or a parliament. But when, in conſequence of what had been thus irregularly determined, the biſhop of Durham, with all his brethren, and many of the temporal nobles, had ſpoken very ſtrongly, *before the whole aſſembly*, againſt Anſelm, and after hearing his anſwer had returned back to the king, a murmur aroſe, *from all the multitude in the church*, upon the wrong done to that prelate. Yet they only complained of it, in a low voice to each other, none of them daring to ſpeak openly for him, out of fear of the king, whom Eadmer calls *the Tyrant*. But at laſt, a knight, or military tenant, *miles unus*, coming forth from the multitude, which ſeems to have been thronged promiſcuouſly together, knelt down before Anſelm, and *in the name of them all* entreated him not to be diſturbed at what had been ſaid to him, &c. whereupon (ſays the Hiſtorian) Anſelm underſtood, *that the opinion of the people was with him*; at which he and thoſe who belonged to him were much rejoiced and encouraged, truſting, according to the Scripture, *that the voice of the people was the voice of God.* " Ortum interea murmur eſt *totius multitudinis* " pro injuriâ tanti viri *ſummiſſa inter ſe voce querentis. Nemo quippe palam* " *pro eo loqui audebat, ob metum tyranni.* Veruntamen *miles unus, de mul-* " *titudine prodiens*, viro aſtitit, *flexis coram eo genibus* dicens, Domine " pater, *rogant te per me ſupplices filii tui* ne turbetur cor tuum ex iis

" quæ

" quæ audiſti, &c. Quæ verba dum pater comi vultu accepiſſet, *intel-*
" *lexit animum populi in ſua ſententia ſecum eſſe. Gaviſi ergo exinde ſumus,*
" *et æquanimiores effecti, confidentes juxta ſcripturam, vocem populi vocem*
" *eſſe Dei.*" Whether, in the *multitude*, from which this *miles* came forth, and in whoſe name he ſpoke to Anſelm, any or all the repreſentatives of counties, cities, and boroughs, were comprehended; or whether any ſuch were included in the general denomination of *proceres et principes regni*, is not ſufficiently clear from this paſſage. It appears, that Anſelm ſat in the midſt of the *proceres* and of the *multitude thronged together.* " Anſelmus *in medio procerum et conglobatæ multitudinis*
" *ſedens* ita orſus eſt," &c. Eadmer, who was chaplain to Anſelm, ſeems to have had a ſeat near him, " Mane autem reverſi *ſedimus in ſolito loco*
" expectantes mandatum regis:" but this ſeat might be granted to him, upon this occaſion, rather for the convenience of that prelate, than in his own right. However this may have been, it is evident from the paſſages recited above, that many regular and ſecular clergymen, and many laymen of a degree inferior to the *proceres et principes regni*, were preſent and aſſiſtant in this great council. I need not obſerve that even now, when the two houſes are together in the ſame place, the peers *ſit*, and the commons *ſtand.*

The ſame contemporary author gives us alſo an account of a parliament held in the year 1100, by King Henry the Firſt, wherein " *tota regni nobilitas cum populi numeroſitate Anſelmum inter ſe et regem*
" *medium fecerunt*, quatenus ei, vice ſui, manu in manum porrectâ, pro-
" mitteret juſtis et ſanctis legibus ſe totum regnum, quoad viveret, in
" cunctis adminiſtraturum." This promiſe, which may be called a confirmation of his charter under the guarantee of Anſelm, being ſolemnly given in parliament, at the deſire *of the whole nobility of the kingdom and of a numerous aſſembly of the people*, who are ſpoken of as preſent and concurring with the former, is another ſtrong evidence, not only of the *attendance* of the commons in the parliaments held during thoſe times, but of *their taking part in the buſineſs tranſacted therein*, and being conſidered *as members of the great council of the nation.* It appears, that this meeting was *in ſolemnitate Pentecoſtes*, when the nobility met of courſe; but I have obſerved before, that it was frequently the practice of thoſe times to convert thoſe leſſer aſſemblies into full and compleat parliaments, by ſummoning the commons to attend them.

In the year eleven hundred and fourteen a great council was convened by Henry the Firſt, in which Radulph biſhop of Rocheſter was elected archbiſhop of Canterbury. The monks of Canterbury, in their epiſtle

to the pope on that ſubject, which the beforementioned Hiſtorian has given us, wrote thus: " *Adunato conventu totius Anglici regni* in præ-
V. Eadm. hiſt. nov. l. v. p. 111, 113. " ſentiâ glorioſi regis noſtri, Henrici, *electus à nobis, et clero, et populo eſt* " *ad regimen ipſius eccleſiæ Radulphus*, &c. Huic electioni affuerunt " epiſcopi, abbates, et principes regni, *et ingens populi multitudo*, conſen- " tiente domino noſtro rege, et eandem electionem laudante, ſuâque " auctoritate corroborante." The mention here made of *a multitude of people* aſſiſting together with the biſhops, abbots, and nobles, or chief men of the kingdom, in the election of a primate, which appears to have been made in full parliament, or (to uſe the words of the letter) in *an aſſembly of the whole kingdom*, is an authority which much corroborates the paſſages above-cited. I will add, that we have a letter from King Henry the Firſt to the pope, on another occaſion, in which he ſays,
V. Epiſt. Hen. reg. in Chron. Brompton, p. 999. " Notumque habeat ſanctitas veſtra, quod, me vivente, Deo auxiliante, " *dignitates et uſus regni Angliæ non minuentur*. . Et ſi ego, quod abſit, " in tantâ me dejectione ponerem, *optimates mei, immo totius Angliæ* " *populus id nullo modo pateretur*." From theſe words it appears, that this king himſelf was of opinion, and made no difficulty of declaring to the pope, *that he could not give up the dignities and cuſtoms of his kingdom without the conſent of the nobility and people of England*: a very ſtrong proof, both that our *monarchy* was not then *abſolute*, but *limited by the parliament*; and that the *limiting power* was veſted in the *people*, as well as in the *nobles*.

I come now to conſider the reign of King Stephen with relation to this point. Of a great council, or parliament, held in the firſt year of that king, Henry of Huntingdon, a contemporary hiſtorian, writes thus: " Rediens autem inde rex Stephanus in Quadrageſimâ tenuit curiam " ſuam apud Lundoniam in ſolemnitate Paſchali, quâ nunquam fuit " ſplendidior in Angliâ *multitudine*, magnitudine, auro, argento, gem- " mis, veſtitu, omnimodâ dapſilitate." By theſe words it appears, that this was a council held, as uſual, at Eaſter, and one of the fulleſt that had ever been ſeen in England. The contemporary author of the Acts of King Stephen ſpeaks alſo of the ſame aſſembly in the following words: " Omnibus igitur ſummatibus regni fide et jurejurando cum rege
V. Geſt. Stephan. regis apud Du Cheſne, p. 932, 933. " conſtrictis, *edicto per Angliam promulgato*, ſummos eccleſiarum ductores " *cum primis populi* ad concilium Londonias conſcivit. Illis quoque " quaſi in unam ſentinam illuc confluentibus, *Eccleſiarumque columnis* " *ſedendi ordine diſpoſitis, vulgo etiam confuſe et permixtim, ut ſolet, ubique* " *ſe ingerente, plura regno et eccleſiæ profutura, fuerunt et utiliter oſtenſa,* " *et ſalubriter pertractata. De eccleſiæ ſiquidem ſtatu in melius com-*

" *ponendo*,

" *ponendo, de ejuſdem libertate multiplicius reſtauranda ſplendide non-*
" *nulla in ipſâ regis præſentiâ perorarunt*," &c. This is a very remarkable paſſage. It appears by it, that the king had ſummoned to this council *the prelates or governours of the church, with the chief of the people*; *eccleſiarum ductores cum primis populi*. But there was in the aſſembly a lower order of people called, by this writer, *vulgus*, who did not ſit, as the prelates and nobility did, in an orderly manner, but crouded in *confuſedly* and *promiſcuouſly, according to cuſtom*. " Eccleſiarumque
" columnis ſedendi ordine diſpoſitis, *vulgo* etiam *confuſe* et *permixtim, ut*
" *ſolet, utique ſe ingerente*," &c. Now this perfectly well agrees with the expreſſions of *populi numeroſitas, conglobatæ multitudinis, et aſſiſtentem monachorum, clericorum, et laicorum numeroſam multitudinem*. But I ſuſpect there is an error, either of the preſs or of the manuſcript from whence it was printed, in the firſt part of the ſentence. Inſtead of *illis quoque, quaſi in unam ſentinam, illuc confluentibus*, I think it ſhould be *aliis*. And then it will run thus: " Edicto per Angliam promulgato, ſummos eccleſiarum
" ductores cum primis populi ad concilium Lundonias conſcivit. Aliis
" quoque, quaſi in unam ſentinam, illuc confluentibus, eccleſiarumque
" columnis ſedendi ordine diſpoſitis," &c. This is much better ſenſe; and then it will appear from the whole paſſage ſo corrected, that the chief of the clergy and laity having been ſummoned to attend this council, by the king's edict, or mandate, publiſhed over all England, others of an inferior degree came in alſo, confuſedly and promiſcuouſly, as they had been uſed to do on ſuch occaſions. This hiſtorian indeed has mentioned only the prelates as *ſitting* in the aſſembly; but it muſt be underſtood that the lay nobility, of all ranks and degrees, enjoyed the ſame diſtinction. We alſo find, that in this parliament the king was perſonally preſent at all the debates, and not, *in ſecreto regio*, with the nobles alone, as in that deſcribed by Eadmer, but together with the *vulgus*. " *Vulgo*
" *etiam confuſe et permixtim, ut ſolet, ubique ſe ingerente*, plura *regno et ec-*
" *cleſiæ profutura* fuerunt et utiliter *oſtenſa*, et ſalubriter *pertractata*.
" De eccleſiæ ſiquidem ſtatu in melius componendo, de ejuſdem liber-
" tate multiplicius reſtaurandâ ſplendidè nonnulla *in ipſâ regis præſentiâ*
" *perorarunt*." Nor is any diſtinction made, or intimated, as if the deciſion, or even the diſcuſſion, of the matters agitated before him, in this mixed aſſembly, was confined to the nobles. Yet they were points of the higheſt nature; and, if the conſtitution in thoſe times admitted the *vulgus* to participate in ſuch conſultations, we may confidently aſſert, that a popular power was mixed with the ariſtocratical in the great councils of the nation. But we muſt not ſuppoſe that this *vulgus*, or

the *populi numerositas* beforementioned, included any persons who were not *free members of the community*; such as originally had a right to assist in great councils. Our parliaments under the government of the Normans were *contracted images* of the general assemblies held in open plains by the first founders and lawgivers of the English nation. And they still retained a great deal of the confusion and irregularity natural to those assemblies.

In the year 1157, a parliament was called to meet at Northampton by King Henry the Second, of which Gervase of Canterbury, a contemporary writer, gives this description. "*Convocati sunt ad eum præsules* "*et principes regni, aliæque inferioris ordinis personæ* apud Northamto- "niam. Post varios autem sermones, *et regni negotia*, actum est etiam "de professione Silvestri abbatis archiepiscopo Cantuariensi faciendâ." The *aliæque inferioris ordinis personæ*, mentioned here after the *præsules et principes regni*, as *convened* by the king, were, I presume, the inferior tenants in chief of the crown, and such representatives of the commons as were *summoned* to parliament, but were not of a rank and dignity to be reckoned among the nobility.

V. Gerv. Chron. sub ann. 1157.

Matthew Paris mentions a controversy between the bishop of Lincoln and the church of St. Albans, which was decided in a great council held at Westminster under King Henry the Second, in the year 1162, at which were present the king himself, the two archbishops, nine bishops, the earl of Leicester grand justiciary, with earls, barons, abbots, *archdeacons, et innumera turba regni.*

P. 83.

Soon after this was held the famous council of Clarendon, which Mr. Selden calls *that great parliament.* It is termed by Fitzstephen, a contemporary writer, *generale concilium.* Matthew Paris, in reckoning up the several persons in this council, who swore to observe the laws there enacted, says, "Archiepiscopi, episcopi, abbates, priores, *clerus*, cum "comitibus, baronibus, et proceribus cunctis juraverunt," &c. Now *clerus*, being thus named after archbishops, bishops, abbots, and priors, shews that other clergymen of a rank inferior to these were present in that council. The same historian says it was held *in præsentia regis Henrici, præsidente Johanne de Oxonia.* This is the only mention I meet with, of the person who presided in any parliament of those times. John of Oxford was then of no higher dignity than king's chaplain.

V. Stephanid. in vitâ S. T.

In the preamble or preface to the Constitutions of Clarendon, it is said, "Facta est ista recognitio coram archiepiscopis et episcopis, *et clero*, "et comitibus, et baronibus, et *proceribus regni.* Et easdem consue- "tudines recognitas per archiepiscopos, et episcopos, et comites, et

V. Constitut. in Append.

" barones, *et per nobiliores et antiquiores regni*, Thomas Cantuarienſis &c. " conceſſerunt," &c. And at the end of them, " Facta eſt autem præ- " dictarum conſuetudinum et dignitatum recordatio regiarum, à præfatis " archiepiſcopis, et epiſcopis, et comitibus et baronibus, *et nobilioribus et* " *antiquioribus regni* apud Clarendonam," &c. In theſe deſcriptions, which are ſhort and general, like all the others of our ancient laws and ſtatutes, the words of the moſt uncertain ſignification are the *proceres* and the *nobiliores et antiquiores* regni, mentioned after earls and barons. I am inclined to believe, from the authorities before-cited, and others that will hereafter be given on this ſubject, that theſe *proceres et nobiliores regni* were the tenants in chief of the king below the rank of barons, the knights of ſhires, and the repreſentatives of the principal cities. But whom are we to underſtand by *antiquiores regni*. The Saxon word *ealdormen*, of which theſe Latin words appear to be a tranſlation, ſignified the ſenior or ſuperior magiſtrates in any community. Sir H. Spelman, in his Gloſſary, explains it thus: " Multipliciter autem occurrit apud Anglo- " Saxones, utpote *pro ſeniore vel ſuperiore in quavis præfectura*." Of which he gives many proofs. It may then be thought, that, by the *antiquiores regni* here mentioned, ſome ſuch are denoted; and that, as they are named after barons, they probably were not of high rank. But other teſtimonies ſhew, that they have a particular reference to thoſe old men, of different orders and degrees, who were ordered to recollect, and ſet down in writing, the ancient cuſtoms of the realm. For, in the account that is given of this council by Gervaſe of Canterbury we find theſe words: " Craſtino autem, cum in unum conveniſſent, et de- " heſternæ diei ſerie pauca retuliſſent, ſciens rex *quod qui major ætate* " *major eſt et iniquitate, Ite*, ait, *ætate et ſapientia provectiores*, et avi mei " conſuetudines diſquirite, ut in ſcriptum redactæ deducantur in me- " dium," &c. The biſhop of London alſo ſays, in a letter to Becket concerning this tranſaction, that the ancient cuſtoms of the kingdom were ſet forth and put into writing *antiquorum memoria*. And in another epiſtle, from all the clergy of the province of Canterbury to the pope, we find theſe words: " Adjuratis itaque per fidem, et per eam quæ " in Deum ſpes eſt, *majoribus natu epiſcopis, aliiſque regni majoribus, re-* " *troacti temporis inſinuato ſtatu, dignitates requiſitæ palam prolatæ ſunt*, " *et ſummorum in regno virorum teſtimoniis propalatæ*." It is not improbable, that ſome old magiſtrates, well acquainted with the ancient cuſtoms in judicial proceedings, were ſummoned to parliament with a particular view to this enquiry, namely the *ſeniores in quavis præfectura*: and very poſſibly the oldeſt magiſtrates in towns and boroughs may have

See it in the Appendix to the next book. Epiſt. 126. e Cod. Cottoniano. V. Epiſt. 128. lib. i. e Cod. Vatican.

have been their repreſentatives in the times of Henry the Second. I would here obſerve, that if the omiſſion of naming repreſentatives of counties, cities, or boroughs, in the deſcriptions of this council be taken as a proof that none were in it, that proof will hold as ſtrong to ſhew, that no tenants *in capite* of the king *inferior to barons* were preſent therein: but, that *all* who held of the king *in capite* had a right to be preſent *in generali concilio*, which this is ſaid to have been, has before been proved from old Records. Among theſe tenants there were many, who, in King Henry the Firſt's charter, are diſtinguiſhed from barons. " Siquis *baronum meorum*, comitum, *vel aliorum qui de me tenent*, mor-" tuus fuerit," &c. And again, in another clauſe, " Siquis *baronum* vel " *aliorum hominum meorum* filium ſuum nuptum tradere voluerit," &c. And a contemporary author ſays, that to the parliament of Northampton, where Becket was arraigned, all the tenants in chief were ſummoned. " In caſtro Northamtoniæ ſolemne ſtatuens (rex) celebrare concilium, " *omnes qui de rege tenebant in capite mandari fecit.*" Whereas many other writers, in deſcribing that parliament, mention only prelates, earls, and barons. Indeed the hiſtorians of this and the following century ſeldom take notice of any but the greater nobility in parliamentary councils. And from this ſilence a negative argument has been drawn againſt the exiſtence of any others in ſuch aſſemblies. But this proof is overturned by poſitive teſtimonies from other contemporary hiſtorians, and ſometimes from themſelves.

See the note on the Record of the 15th of King John, cited by Brady.

V. Stephan. in vitâ S. T. Selden's Titles of Honour, part ii. p. 733. See alſo Rot. Clauſ. 19 H. III. dorſo. & Brady's anſwer to Petit, p. 69.

Thus Matthew Paris, in the deſcription he gives of a parliament, which he terms *a moſt general one*, in the thirtieth year of King Henry the Third, mentions none of the laity, but earls and barons, and none of the clergy, but biſhops, abbots, and priors. " Medio vero Quadrage-" ſimæ, edicto regio convocata, *convenit ad parliamentum generaliſſimum* " *totius regni Anglicani totalis nobilitas Londini, videlicet, prælatorum,* " *tam abbatum et priorum, quam epiſcoporum; comitum quoque et baronum,* " ut de ſtatu regni &c. contrectarent." A ſtronger paſſage can ſcarce be found in any writer, to countenance the opinion, that ſo late, as in the thirtieth year of King Henry the Third, our *moſt general parliaments* conſiſted only of the *nobility of the kingdom*, and that by the *nobility* none were meant but prelates, earls, and barons. Yet this very author will himſelf furniſh an evident proof, that in this ſame parliament, not only all the tenants in chief, but *the whole clergy and people* were preſent, and participant in the acts done therein. For he tells us, that when the king had laid before his parliament ſeveral articles, " ſuper gravaminibus et " oppreſſionibus eccleſiæ et regni ſui &c. Hæc attendentes univerſi ac

V. M. Paris, ſub ann. 1246.

P. 469.

" ſinguli unanimiter conſenſerunt, ut adhuc, ob reverentiam ſedis apoſto-
" licæ, D. Papæ humiliter ac devote, tam per epiſtolas, quam per ſolem-
" nes nuncios, ſupplicarent, ut tam intolerabilia gravamina et jugum
" ſubtraheret importabile. Scripſerunt igitur D. Papæ in hæc verba."
He then recites the letters they wrote to the pope, of which the firſt is from the biſhops of the province of Canterbury; the ſecond from all the abbots and priors of England in the name of themſelves and their convents; and the third runs in theſe words: " Sanctiſſimo &c.
" Devoti filii ſui, comes Cornubiæ Richardus, Simon de Monteforti,
" comes Legreceſtriæ, de Boun comes Herefordiæ et Eſſexiæ, R. le
" Bigod, comes Northfolkiæ, R. comes Gloverniæ et Herefordiæ, R.
" comes Wintoniæ, W. comes Albemarliæ, H. comes Oxonienſis, et
" alii totius regni Angliæ barones, proceres, et magnates, *ac nobiles por-*
" *tuum maris habitatores*, nec non *et clerus et populus univerſus*, ſalu-
" tem," &c. Here *the inhabitants of the Cinque Ports* (of whom no mention was made in the deſcription above given) are added to the barons *and other nobles and chief men of the kingdom*, as concurring in this epiſtle; and over and above all theſe, *the whole clergy and people*. Many other inſtances may be given, how little ſtreſs ought to be laid, for the determining of this queſtion, on the ſilence of writers about the commons, in the ſhort and inaccurate accounts of great councils or parliaments, which we commonly meet with, during this period of our Hiſtory; but I will only produce one more, from the Annals of Burton, which ſpeaking of a parliament held in the thirty ninth year of Henry the Third deſcribe it thus: " Poſt feſtum S. Michaelis autem tenuit rex parliamentum
" ſuum apud Weſtmonaſterium, convocatis ibidem *epiſcopis, abbatibus, et*
" *prioribus, comitibus et baronibus, et totius regni majoribus.*" "From whence
" (ſays Dr. Hody) one would at firſt ſight conclude that the *inferior clergy*
" were not preſent. But from hence it appears, that we ought not to
" rely on ſuch kind of enumerations." For immediately it follows, " In
" quo petebat à *clero* de laicis feudis ſuis ſibi ſuffragium exhiberi &c.
" diſponens, de ſuo conſilio iniquo, hoc prius à *clero*, et poſtmodum à
" *populo majore et minori* extorquere. Epiſcopi vero, abbates, priores,
" *et procuratores qui ibidem pro univerſitate affuerunt*, nolentes hujuſmodi
" exactioni adquieſcere," &c.

V. Ann. Burton, ſub ann. 1255. p. 355. Hiſt. of Convocat. p. 345.

If theſe proctors, who were there for the whole body of the clergy, had not been thus expreſly named in the following paragraphs, together with the *populus minor*, or commons, the foregoing deſcription might have been brought to confirm Dr. Brady's aſſertion, that none but tenants in chief were to be found in our parliaments before the forty ninth of Henry

Henry the Third: whereas now we are aſſured by the teſtimony of theſe annals, that even this mode of repreſentation had taken place before that time. Indeed the learned Dr. Wake, in his book againſt Atterbury, on the State of the Church and Clergy of England (p. 202.) ſuppoſes, that the proctors here mentioned were not preſent in parliament, but only in a legatine council held at the ſame time. This is ſetting aſide the authority of thoſe Annals, becauſe they diſagree with his Hypotheſis. But how could the writer of them, *who lived himſelf at that time*, have made ſuch a miſtake, if no proctors for the clergy had ever come to parliament before the twenty third year of Edward the Firſt?

Having thus ſhewn the inſufficiency of the argument drawn, by many eminent writers, againſt the preſence of the commons in our ancient legiſlature, from the general ſilence of hiſtorians who lived in thoſe times, I ſhall proceed to lay before the reader ſuch deſcriptions of parliaments in the reign of Henry the Second, as ſeem to contain a degree of poſitive evidence which may give light to this queſtion. Gilbert Foliot, biſhop of London, in the letter to Becket beforementioned, where he is ſpeaking of the parliament convened at Northampton, for the trial of that prelate and other buſineſs of the kingdom, ſays, "*Convenit populus* "*ut vir unus*:" It would be a great force on the natural meaning of the word, to conſtrue *populus* here as comprehending only the nobility and tenants in chief of the crown. At the ſame time it is evident, that *the whole body of the people* (which is the proper and obvious ſenſe of the term) could not have aſſembled in that town or caſtle, otherwiſe than by ſome mode of repreſentation. Such indeed of the inferior clergy, or lay-freeholders, as reſided in or near Northampton, might be perſonally there, *confuſe et permixtim*; but they whoſe abode was far diſtant, and large communities of men, could only come thither by *procurators*, or *repreſentatives*. And in this way the expreſſion, *convenit populus ut vir unus*, is intelligible and juſt. The biſhop of London, after having mentioned this great attendance at Northampton, in conſequence of the king's ſummons, goes on in theſe words: "*Et aſſidentibus ſibi, quorum* "*id dignitati congruebat et ordini*, quod dictum eſt ſuper exſpreto man- "dato ſuo, *in querelam adverſus vos*, uſus quâ decuit modeſtiâ et venuſtate, "*propoſuit*." A diſtinction is here made between the different ranks and orders of men comprehended before under the general word *populus*. It is ſaid, that thoſe, *to whoſe dignity and rank it belonged*, ſitting near to the king, he modeſtly laid before them his complaint againſt Becket: which implies that others were preſent, who were not of a rank and dignity to be ſeated in this aſſembly. Of the courſe of the proceedings I

V. Append. to the next book, Epiſt. 126.

ſhall

ſhall ſay more in another part of this work. It will be ſufficient here to obſerve, that the buſineſs of this aſſembly, which Brompton expreſly calls *parliamentum*, and which certainly was more than the ordinary *curia regis*, appears not to have been confined to the trial of Becket: for a contemporary author informs us, that a ſcutage was ſettled in it, for raiſing foot ſoldiers to be employed againſt the Welſh. And it is probable, that other matters were alſo conſidered in it, as the meeting was ſo general; though the hiſtorians, being monks, are ſo taken up with the affair of Becket, that they have omitted to mention them. In the author laſt-cited we find theſe words: "Conſulentibus epiſcopis, "comitibus, *et baronibus Angliæ omnibus, Normanniæ pluribus.*" I preſume that theſe *Norman barons*, who are mentioned here as *conſulting* with thoſe of England in this parliament, had lands and honours in the kingdom: for the writer takes no notice of it as an irregularity. Roger de Hoveden, in his account of the tranſactions in this council relating to Becket, has theſe words: "Et cum veniſſet ad aulam regis "deſcendit et ipſe, crucem ſuam bajulans, et intravit domum re-"gis. Deinde intravit *exteriorem cameram* ſolus, portans crucem ſuam. "Nullus enim ſuorum ſequebatur eum. Et cum intraſſet, invenit "*plebem multam in eâ, ſeditque inter illos: rex autem erat in ſecretiori* "*thalamo cum ſuis familiaribus.*" This is exactly agreeable to Eadmer's account of the parliament at Rockingham caſtle, where the king was *in ſecreto regio cum principibus*, and the *multitudo populi* was in the body of the church belonging to the caſtle. Hoveden afterwards calls this outward room *curia*. And in the paſſage above-cited he ſays the archbiſhop ſat down among the commons, *invenit plebem multam in eâ, ſeditque inter illos:* which he ſurely would not have done, if they had been a mere *mob*. Another author of that age (Alanus in Quadrilogo) ſays, that the king expected him in this outward chamber, where Roger de Hoveden tells us the *multa plebs* was aſſembled; but, that, upon his coming in armed with the croſs, the king retired into an inner room. "Intraturus cameram regis, ubi eum rex præſtolabatur, ad oſtium ipſum "à crucis bajulo crucem accepit, et palam, cunctis videntibus, ipſe eam "bajulavit, &c. Audiens autem rex archiepiſcopum armatum venire, "&c. *citius receſſit in conclave interius.*" It is of no importance to the point I am conſidering now, which of theſe authors is right in this particular: but from both accounts it appears, that the chamber, in which Hoveden ſays the *plebs* was aſſembled, was the great chamber of the parliament. And the words of Gervaſe of Canterbury are much the ſame with thoſe above-cited.

V. Brompt. Chron. ſub ann. 1165.

V. Stephanid. in vitâ S. Thomæ.

In the year 1188, a great council, or parliament, was held by Henry the Second at Gaintington near Northampton, in which a very heavy tax was laid upon the whole nation for the Cruſade againſt Saladin. Hoveden ſays, "Rex magnum convocavit concilium epiſcoporum, abba-"tum, comitum, et baronum, *et aliorum multorum, tam clericorum quam* "*laicorum.*" From theſe words, compared with, and explained by other paſſages, which I have cited before, we may ſuppoſe that this parliament, *the laſt of Henry the Second*, had in it all the inferior orders of freemen, both clergy and laity; that is, ſome of each order.

The reader may enquire, in what manner the opinion of the people was taken, when they were aſſembled in the confuſed and irregular multitudes before deſcribed. Of this I find no account that is abſolutely certain; but a very probable conjecture may be drawn from a paſſage in the Continuation of the Hiſtory of Florence of Worceſter by another ancient writer. Deſcribing a ſynod held at Weſtminſter, in the year eleven hundred and twenty five, he ſays, "that all the prelates were "there *cum innumerâ cleri et populi multitudine.*" He then recites the ſeveral canons, or decrees, which they made, and concludes them all with this form of words thrice repeated, "*Placet vobis? Placet:*" which undoubtedly was the manner of aſking and giving votes made uſe of in that ſynod; from which we may reaſonably infer, that the ſame was uſed in our parliaments, the reſemblance between thoſe and ſynods being then very great. So late, as in the twenty eighth year of King Edward the Third, we find, that the commons were told by the lord chamberlain, in the preſence of the lords, that there were great hopes of bringing about a peace between England and France, by means of certain commiſſioners appointed, on both parts, for that purpoſe; but yet the king would not conclude any thing without the conſent of his lords and commons, wherefore he demanded of them, in the king's name, whether they would aſſent and agree to a peace, if it might be had by treaty? to which the commons anſwered with one accord, that what ſhould be agreeable to the king and his council in making of this treaty would be ſo to them: but being aſked again, whether they conſented to a perpetual peace, if it might be had, they all unanimouſly cried out, *Ouy, ouy, Ay, ay.* Mr. Tyrrel obſerves upon this, that parliamentary proceedings were not then reduced to that form and regularity which they have been brought to ſince that time; the commons here giving their opinion *viva voce*, and in the preſence of the lords, to what the king demanded.

See Parliamentary Hiſtory, p. 301,

P. 282. *But the aſſembly of the nobles was convened with more eaſe, and appears to have acted, not only as a council of ſtate, and ſupreme court of judicature, but, as being authoriſed, by permiſſion and common conſent, to exerciſe ſome degree of parliamentary power, the limitations of which were not accurately defined.*

The words of Sir H. Spelman on this ſubject are remarkable: V. Spelman's Gloſſ. MAGNUM CONCILIUM.

" Magnum concilium plerunque intelligitur de ſummo illo concilio totius
" regni (quod parlamentum vocant) è tribus ordinibus conſtitutum.
" Sub hoc autem nomine continetur aliàs *ariſtocraticum illud, quod ad*
" *ardua etiam regni negotia cogébant aliquando reges veteres conſimili brevi*
" *quo et ipſum parlamentum, ſed prætermiſſa plebe, et minori ſolennitate.*
" In magno enim concilio quod tenuit Edwardus III, anno regni ſui 15.
" circa feſtum tranſlationis Thomæ Martyris (quod erat 7 die Julii), nec
" 40 dierum ratio in ejuſdem ſummonitione habebatur, nec *baronum*
" *omnium* convocatio: ſed cum in parlamento Weſtmonaſterii immediate
" jam tum præcedente, 54 enumerati eſſent (præter epiſcopos) ſeculares
" proceres, hic Londini evocabantur 22 tantummodo. De magno con-
" cilio fit ſæpe mentio in annalibus noſtris; ſed *de quo prædictorum genere*
" *intelligendum fuerit ſæpe etiam dubitatur.* Archiva conſule.

The uncertainty how to diſtinguiſh theſe different councils in the accounts of ancient authors, which Sir H. Spelman here mentions, has occaſioned much of the perplexity and variety of opinions among learned men about the ſhare that the commons had in the parliaments of this kingdom before the forty ninth of Henry III. For a long time we can have no aſſiſtance from our archives, to which he refers us; nor, when they can be conſulted, do they always afford ſo clear a light as might be deſired.

Ibid. *The ſame magnificence in feaſting was continued by his ſucceſſor, but dropt by Henry the Firſt.*

The words of William of Malmſbury, from whence I take this account, are as follows: " *Convivia* in præcipuis feſtivitatibus *ſumptuoſa et magnifica* inibat. Natale Domini apud Gloceſtriam, Paſcha
" apud Wintoniam, Pentecoſten apud Weſtmonaſterium agens quotannis quibus in Angliâ morari liceret. Omnes eo cujuſcunque profeſſionis magnates regium edictum accerſebat, ut exterarum gentium
" legati ſpeciem multitudinis, apparatumque deliciarum mirarentur.
" Nec ullo tempore comior aut indulgendi facilior erat, ut qui adve-
" nerant largitatem ejus cum divitiis conquadrare ubique gentium jacti-
" tarent. L. iii. f. 63.

" tarent. *Quem morem convivandi primus ſucceſſor obſtinate tenuit, ſecundus* " *omiſit.*"

By the laſt paragraph I do not underſtand that Henry the Firſt laid aſide the uſual meetings of the nobility for the diſpatch of publick buſineſs at Chriſtmas, Eaſter, and Whitſuntide; but only that he omitted the cuſtom of feaſting with them in the liberal manner that had been practiſed by his father and brother, or, at moſt, that he did not conſtantly ſummon thoſe aſſemblies as they had done.

P. 284. *although, in the twenty firſt year of Richard the Second, the commons had ſhewn, in a petition to the king, how that before thoſe times many judgements and ordinances, made in the times of the progenitors of our lord the king in parliament, had been repealed and diſannulled, becauſe the ſtate of the clergy were not preſent in parliament at the making of the ſaid judgements and ordinances.*

In this petition the *judgements* may be underſtood to refer more particularly to the prelates, who had abſented themſelves from trials in the houſe of lords; but in the making of *ordinances* the clergy of the lower houſe were concerned, as well as thoſe of the upper. Accordingly it appears, that, in conſequence of this petition, a proctor was appointed to act for *them*, as well as for the prelates. And Biſhop Burnet takes notice, that, in the ſecond act of the ſame parliament (viz. in the twenty firſt of Richard II.) it is ſaid, " That it was firſt prayed by the commons, " and that the lords ſpiritual, and *the proctors of the clergy*, did aſſent to " it; upon which the king, by the aſſent *of all the lords and commons*, " did enact it." He adds, " That the twelfth act of that parliament " was a repeal of the whole parliament, that was held in the eleventh " year of that reign, and concerning it, it is expreſt, that the lords " ſpiritual and temporal, *the proctors of the clergy*, and the commons, " being *ſeverally* examined, did all agree to it. From hence it appears, " *that theſe proctors were not only a part of the parliament, but were a* " *diſtinct body of men, that did ſeverally from all the reſt deliver their* " *opinions.*"

P. 285. *The preſence of* the people *in the Saxon councils, and their having had a ſhare in the higheſt acts of legiſlature and government, even till the entrance of the Normans, ſeems to be proved very ſtrongly, from the preambles of laws and other proceedings of thoſe councils; and from the words of the beſt hiſtorians, who lived near to thoſe times.*

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The Preface to Ina's Laws is thus tranſlated by Wilkins, "Ego Ina "occiduorum Saxonum rex, cum conſilio et cum doctrinâ Cenredæ patris "mei, et Heddæ epiſcopi mei, et Erkenwoldæ epiſcopi mei, et *cum* "*omnibus meis ſenatoribus*, et *ſenioribus ſapientibus populi mei*, et *multa* "*etiam ſocietate miniſtrorum Dei*, conſultabam de ſalute animæ noſtræ, et "de fundamento regni noſtri, ut juſtæ leges et juſta ſtatuta per ditionem "noſtram ſtabilita et conſtituta eſſent," &c.

By theſe words it appears, that the Saxon legiſlature was compoſed of the king, *cum omnibus ſuis ſenatoribus*, which ſenators I take to have been the *nobility of the kingdom*, ſuch as afterwards formed the ordinary council of lords under our kings of Norman race; et *cum ſenioribus ſapientibus populi ſui*, by whom I underſtand the deputies or repreſentatives of the people, either by election or magiſtracy; et *cum multa etiam ſocietate miniſtrorum Dei*, which words evidently denote the inferior clergy, mentioned by Eadmer as preſent in the parliaments of his times.

In the year 855, Ethelwolph, king of the Weſt-Saxons, gave to the church the tythe of his kingdom, "*cum conſilio epiſcoporum et principum*, "præſentibus et ſubſcribentibus archiepiſcopis et epiſcopis Angliæ uni- "verſis, nec non et Beorredo R. Merciæ, et Edmundo Eſtanglornm R. "abbatum et abbatiſſarum, ducum, comitum, procerumque totius terræ, "*aliorumque fidelium infinita multitudine, qui omnes regium chirographum* "*laudaverunt, dignitates vero ſubſcripſerunt.*" By this laſt paragraph it appears, that the act or decree of the council was *approved by all preſent*, though *ſubſcribed* by none but *the nobility*, or *dignified perſons* The Saxon conſtitution therefore required, not only *the preſence*, but *the approbation, of the people*, to the enacting of a law: yet to mark the diſtinction between theſe, and the higher orders of the ſtate, the nobility alone ſet their hands to the act. The *proceres totius terræ* here mentioned will take in all the *Thanes*, and perhaps the *ſeniores ſapientes regni*. By the words *aliorumque fidelium infinita multitudine*, I underſtand an unlimited number of freeholders, the ſame as the *populi numeroſitas, et aſſiſtentem monachorum, clericorum, laicorum numeroſam multitudinem*, mentioned by Eadmer, and the *Vulgus* ſpoken of by the author of the Acts of King Stephen. The late Sir John Forteſcue Aland, one of the juſtices of the King's Bench, who was very learned in the Saxon language and legal antiquities, ſays, in his Preface to the Book of Chancellor Forteſcue on the difference between an abſolute and limited monarchy, "*that who-* "*ever carefully and ſkilfully reads the Saxon laws, and the prefaces or* "*preambles to them, will find, that the commons of England always in the* "*Saxon times made part of that auguſt aſſembly.*"

V. Spelman's Councils, ſub ann. 855.

There

V. H Hunt. Hiſt. lib. iv. f. 196.

There is a remarkable paſſage in Henry of Huntington, concerning the depoſition of Sigebert, king of the Weſt-Saxons. "Sigebertus rex, "in principio ſecundi anni regni ſui, cum incorrigibilis ſuperbiæ et ne-"quitiæ eſſet, congregati ſunt proceres et *populus* totius regni, et *provida* "*deliberatione, et unanimi conſenſu omnium, expulſus eſt a regno.* Kinewelf "vero, juvenis egregius, de regiâ ſtirpe oriundus, *electus eſt in regem.*" Here we ſee that the Saxon *people* concurred with the nobility, both in depoſing and electing a king, and that it was not done in a tumultuous manner, but *provida deliberatione et unanimi conſenſu,* words which expreſs a parliamentary deliberation and conſent. Henry of Huntington wrote early in the reign of Henry the Second, when the memory of the Saxon cuſtoms could not be worn out in England, and certainly took this part of his hiſtory from ſome more ancient chronicle. The words are alſo tranſcribed by Roger de Hoveden, in his Annals, without any correction.

Sir H. Spelman ſays, "it ſeemeth by thoſe ſynods that were holden "in the times of the Saxon kings, and by ſome after the conqueſt, that "*great numbers of the common people flockt thither.*" For it is ſaid in ann. 1021, "*cum quamplurimis gregariis militibus, ac cum populi multitudine* "*copioſa.*" And ann. 1126, "*innumeraque cleri et populi multitudine:*" and ſo likewiſe in ann. 1138, and other *ſynods* and *councils.* By what order or limitation this *innumera populi multitudo* came to theſe aſſemblies appeareth not." (See Spelm. of Parliaments, p. 64.)

Lib. iii. f. 56.

William of Malmſbury, in a paſſage I have cited before, relates an anſwer ſent by Harold to the duke of Normandy's charge of his having broken the oath, by which he had promiſed to aid that prince in his pretenſions to England. The words are theſe: "De regno addebat "præſumptuoſum fuiſſe, quod *abſque generali ſenatus et populi conventu et* "*edicto* alienam illi hæreditatem juraverit." This is a plain declaration, that, by the Saxon conſtitution eſtabliſhed in England, *the people*, as well as the nobles, had a right to be called to *the general aſſembly*, upon affairs of great moment, and to join in the *edicts* made there; ſo that, without *their conſent*, the ſucceſſion to the crown could not be diſpoſed of. It is obſervable, that the hiſtorian uſes the word *ſenatus* in the ſame ſenſe as we find it in the before-cited preamble to the laws of King Ina, for the ordinary aſſembly of the nobles, which he diſtinguiſhes from *the people*, but ſuppoſes that the latter ought to be joined to the former, in order to compoſe the entire legiſlature and great council of the nation, upon extraordinary occaſions. This was agreeable to the cuſtom aſcribed by Tacitus to the Germans, from whom they ſprung: "*De*

"*minoribus*

" *minoribus rebus principes conſultant, de majoribus omnes; ita tamen, ut ea* " *quoque, quorum apud plebem arbitrium eſt, apud principes pertractentur.*" And I think it apparent, that the ſame form of government continued in England, during the reigns of all the kings treated of in this work; ſome clear traces of it remaining till much later times. But, as the feudal ſyſtem was more favourable to the ariſtocratical than to the popular power, the *leſſer ſenate* by degrees uſurped much of the authority that belonged to the greater; and even in the general aſſemblies the nobles were ſo predominant, as to leave the people little power, till the relaxation of that ſyſtem, the encreaſe of wealth among the commons, and other changes in the political ſtate of the kingdom, which it would take up too much time to enumerate here, gave more regularity and a better balance to the whole legiſlature.

We are told by the Book of Ely, that, in Edward the Confeſſor's reign, the brother of an abbot, though nobly born, could not be reckoned among the nobility of the kingdom, becauſe he had not an eſtate of forty hides of lands. " *Quoniam ille quadraginta hidarum dominium* " *minime obtineret, inter proceres tunc numerari non potuit:* and therefore he was refuſed by a lady, whom he ſought in marriage, till his eſtate was encreaſed to that magnitude by grants of land from his brother. This paſſage is remarkable, becauſe it ſhews that a certain portion, and that a very large one, of landed property *in dominio* was a neceſſary qualification, under the Anglo-Saxon government, to admit any perſon to *the rank and degree of nobility.* Whether this continued under the Normans I find no proof; but it muſt be obſerved, that no argument can be juſtly drawn from hence, that, to be qualified for a place in the Saxon great council, or *witenagemot*, it was requiſite to be lord of forty hides of land. Nothing like it is ſaid here, nor does ſuch a notion agree with any accounts that are given us of that aſſembly in the writings or records of thoſe times. But if the *leſſer ſenate* was compoſed of none but the *proceres*, as there is reaſon to believe, this paſſage will be a proof, that, without ſuch an eſtate or lordſhip, no perſon could ſit *there.*

V. Hiſtor. Elienſ. lib. ii. c. xi. Gale's Hiſt. Brit. Script. vol. i. p. 513.

P. 286. *For, the property of the commons was ſo unequal to that of the nobles, and the feudal obligations of the inferior landholders to the lords they held under created ſuch a dependence of the former on the latter, that, although in the idea and ſcheme of the government, a popular power was mixed with the regal and ariſtocratical, yet, in reality, the ſcale of the people was not weighty enough to make a proper counterpoiſe to either of the other.*

All

All this muſt be very evident to any perſon who reads the hiſtory of this kingdom, or looks into its laws. But another reaſon may be added to account for what appears in many rolls of parliament, long after the period contained in this work, that the commons declined to give their opinion or advice to the crown, in certain matters of ſtate, and ſubmitted their judgement thereupon to the king and his council, or to them and the lords. While the repreſentatives of cities, towns, and boroughs, were choſen only out of perſons reſiding therein, they were, for the moſt part, people of low degree and condition, whoſe education and way of life rendered them very unfit to judge of arduous queſtions concerning foreign affairs, and treaties with foreign ſtates. Accordingly we find, that, in the ſeventh of King Richard the Second, the commons being much preſt to give their opinions on a treaty of peace with France, *before the concluſion thereof*, declared, *they knew not what to ſay*; *becauſe in the articles were contained many terms of the civil law which they underſtood not*; and, in the ſeventeenth of the ſame king, they pleaded want of capacity to give their judgement or advice on the articles of a peace, in which were contained the law-terms of *homage lige*, *ſouverainté*, *et reſſort*, for which they referred themſelves to what the lords, *knights*, and judges had before agreed upon. Here we ſee that the *knights of ſhires* were not ſuppoſed to be under the ſame incapacity as the reſt of the commons. It was therefore an alteration very beneficial to the importance of the commons in parliament, when gentlemen of liberal education were admitted to ſerve for cities, towns, and boroughs. The revival of learning in the ſixteenth century, and diffuſion of it among the gentry, during the next hundred years, contributed alſo to fill the houſe of commons with able and knowing men, who had no need to have recourſe to the other houſe of parliament, or to the king's council, for the explaining of terms of law, or the articles of a treaty with any foreign power. But it will be proper to obſerve, that even in the earlieſt times, ſo far back as we have any rolls of the parliament, all the commons appear to have given their advice with great freedom in matters concerning the internal government and order of the kingdom. What they declined to adviſe in, upon ſome occaſions, were queſtions that related to the making of peace or war, as, for inſtance, in the twenty firſt and twenty eighth years of King Edward the Third, and ſixth, ſeventh, and ſeventeenth of Richard the Second. In one of theſe, namely, the ſeventh of Richard the Second, they were told by the chancellor, "that he was to ſhew them certain "articles, *wherein, although the king himſelf might well conclude, yet, for*

See the Rolls of thoſe years.

"*good will, he would not, without their knowledge and conſent.*" To this they anſwered, not imprudently, *that it beſeemed not them to intermeddle with their counſel therein, and referred it to the king and council.* Certainly there was a great difference between exerciſing the proper parliamentary power of judging of the articles of a peace concluded, and of calling the miniſters to account if they had adviſed the king ill in the exerciſe of his prerogative, or authoriſing them to conclude particular articles by a *previous advice.* But in all theſe inſtances it is remarkable, how great a regard was ſhewn by theſe kings to their parliaments, even in points which belonged to the royal prerogative! Such a conduct in ſuch a prince as Edward the Third, crowned with victory and with glory above all other monarchs, is an evident indication, that *to govern by parliaments* has been the policy of this kingdom under the wiſeſt and beſt kings, from the earlieſt times.

A late author has cited Sir Robert Cotton's Abridgement of the Records in the Tower, to ſhew that the commons, in thoſe times, *were much below the rank of legiſlators.* He ſays, "the king told the commons, that they were only petitioners, that is, *they had not any proper legiſlative authority.*" But I will give the whole paſſage as it ſtands in the book itſelf, that the reader may judge on what authority this conſtruction is founded. The words are theſe: "The duke of York, and earl of Northumberland, and others of the blood of the archbiſhop of Canterbury, pray the king, that the ſame archbiſhop might have his recovery againſt Roger Walden, for ſundry waſtes and ſpoils done by the ſaid Roger, in the archbiſhoprick aforeſaid, whereto the king granted, and thanked them for their motion. The commons on the 30th of November pray, *that foraſmuch as they were not made privy to the judgement aforeſaid, no record be made to charge or to make them parties thereunto*; whereunto the archbiſhop of Canterbury, by the king's commandment, anſwered, that the commons were *only petitioners*, and *that all judgements appertain to the king and to the lords: unleſs it were in ſtatutes, grants, ſubſidies, and ſuch like*, the which the king would from that time to be obſerved." It is evident, that the *legiſlative power of the commons*, inſtead of being *denied*, is expreſly *confirmed* by this anſwer. They are truly told, that the power of *judicature* appertains not to them, but to the king and the lords; and this was the queſtion to which their prayer related: but in *ſtatutes* they were to judge, as well as in grants, ſubſidies, &c. Certainly their being *petitioners* was no argument of their not being *legiſlators:* ſince the courſe of proceedings then was, that their *petitions*, if aſſented to by the lords

See Hume's Hiſt. of England, p. 91. vol. ii. note.

See Cotton's Abridgement of the Records in the Tower, p. 392. 1 Hen. IV.

and the king, ſhould be turned into *ſtatutes*, as all the old records of parliament unqueſtionably ſhew.

P. 286, 287. *The execution of all laws was entruſted to the king, and none could be made, repealed, or altered, without his aſſent.*

This has been always the royal prerogative in this kingdom: but *the diſpenſing with laws* began no earlier than the reign of Henry the Third, by an inſertion of the clauſe of *non obſtante* into grants and patents, after the example of the papal power. Matthew Paris calls this *deteſtabilis adjectio*, and what the king's judges at that time thought of it appears from this paſſage in the ſame contemporary hiſtorian, "Quod cum com-"periſſet quidam vir diſcretus, *tunc juſticiarius*, Rogerus de Thurkeby, "ab alto ducens ſuſpiria de prædictæ adjectionis appoſitione, Heu heu, "hos ut quid dies expectavimus? *Ecce jam civilis curia exemplo eccle-"ſiaſticæ coinquinatur, et à ſulphureo fonte intoxicatur.*" The parliament likewiſe complained, *that the church and kingdom ſuffered infinitely by reaſon of the clauſe of* non obſtante, *which weakened and enervated all oaths, ancient cuſtoms, written laws, grants, ſtatutes, and privileges.* When King Richard the Second ſaid (as he is charged to have done in one of the articles exhibited againſt him in parliament), *that his laws were in his mouth, or in his breaſt*; and *that he himſelf alone could make and change the laws of his kingdom*, he totally departed from all the notions of the ancient conſtitution, and by acting upon ſuch principles, infuſed into him by *foreigners*, he diſſolved the bonds of allegiance, and *depoſed himſelf*.

V. Parliam. Hiſt. vol. i. p. 46.

During the violence of the civil wars between the two houſes of York and Lancaſter, and the frequent revolutions that happened in the government, the whole frame of the conſtitution was ſhaken and injured: but how ſtrongly the fundamental notions of liberty were ſtill prevalent in the breaſts of honeſt and knowing men, appears from the admirable treatiſe of Forteſcue on abſolute and limited monarchy. He, who had been raiſed to the higheſt offices of the law under Henry the Sixth, was not afraid to affirm under Edward the Fourth, with the ſame freedom as in another part of his writings he had ſpoken to his royal pupil, the ſon of Henry the Sixth, that "*rex datur propter regnum, et non regnum "propter regem. Wherefore all that he doth ought to be referred to his "kingdom. For though his eſtate be the higheſt eſtate temporal upon earth, "yet it is an office in the which he miniſtreth in his realm defence and juſtice. "And therefore he may ſay of himſelf, as the pope ſaith of himſelf and of the "church, in that he writeth* ſervus ſervorum Dei." This author alſo founds the original of our government on a number of people *incorporating*

See Forteſcue on abſolute and limited monarchy, c. viii.

corporating and uniting themſelves into a realm under one head, or king; C. ii. ſays, "*they ordained the ſame realm to be ruled by ſuch laws as they would* "*all aſſent to*;" which he affirms to be the only *political government, and abſolute monarchy to be mere tyranny.* Such were the notions of our anceſtors, in the reign of Edward the Fourth. Nor does Bracton, or Glanville, ſpeak a different language. But, on the other hand, they had no idea of degrading our kings into mere *doges of Venice*, diveſted of all royal power. And ſome of our over-zealous whigs would do well to conſider, that, by thus lowering the monarchical part of our government, they would as much deſtroy the ſymmetry and ſtrength of the whole, as thoſe who ſeek to raiſe it higher than the juſt proportions of a mixed and limited monarchy will admit. Even allowing, what I think can never be allowed, that a republick in itſelf is a better form of government for a great and opulent country, than a mixed and limited monarchy, it does not follow from thence (as theſe gentlemen ſeem to believe), that by bringing the latter nearer to the former they ſhall make the latter more perfect. For the perfection of it conſiſts in the equal poiſe of the three conſtituent parts. Whether that poiſe be deſtroyed by throwing too much weight on the ſide of the king, or of the nobility, or of the people, the miſchief is the ſame.

P. 288. *The wealth of the crown, in the times of which I write, was a great ſupport of it's power.*

Ordericus Vitalis, a contemporary hiſtorian, ſays, that out of the ſettled revenues of England one thouſand and ſixty pounds of ſterling money, thirty ſhillings, and three farthings, were reported to be paid every day to William the Firſt, beſides the gifts, fines, or amercements, and many other articles, which continually encreaſed the royal treaſure. "Ipſi vero regi (ut fertur) *mille et ſexaginta libræ ſterilenſis monetæ*, L. iv. p. 523. apud Duchef. "*ſolidique triginta, et tres oboli ex juſtis redditibus Angliæ per ſingulos* "*dies redduntur, exceptis muneribus regiis, et reatuum redemptionibus,* "*aliiſque multiplicibus negociis quæ regis ærarium quotidie adaugent.*" It is obſervable, that the hiſtorian does not give us this account upon his own knowledge, but upon report *(ut fertur)*. Yet one would ſuppoſe, that his information was very particular, as he mentions even the farthings. And the way in which he counts, viz. one thouſand and ſixty pounds, and thirty ſhillings, inſtead of one thouſand and ſixty one pounds, ten ſhillings, is ſtill uſed in the Exchequer. Yet the ſum is ſo great as juſtly to occaſion a doubt: for, the pounds here mentioned being pounds *in weight*, which contained in them as much ſilver as three of

our preſent pounds ſterling; and the ſhillings not being coins of that denomination, but ſignifying the twentieth part of a pound weight of ſilver, which makes one of them equivalent to three of our ſhillings; this receipt amounts to three thouſand, one hundred, and eighty four pounds, ten ſhillings of our money, not reckoning the farthings. Multiply this by 365, the produce will be 1,073,985 of annual income; which being alſo multiplied by five (the loweſt computation of the value of ſilver in thoſe days beyond the preſent) the ſum produced by it will be 5,369,925, excluſive of all the caſual profits of the crown, which in thoſe days were very high.

Though William Rufus was very laviſh in his gifts and expences, it does not appear that he alienated any part of the ancient inheritance of the crown. For no reſumption was made of his grants by his ſucceſſor, nor any complaint of the crown's being deprived of it's patrimony; but, on the contrary, that prince's opulence is noted by all the contemporary hiſtorians. A modern hiſtorian affirms indeed, that William Rufus, about the latter end of his reign, *reſumed his own grants*; but no proof of this is found in the contemporary writers. William of Malmſbury ſays, that when he had ſpent all the treaſures of his father, he made up his loſſes by rapines. *Itaque, quum defeciſſet quod daret, inops et exhauſtus, ad rapinas convertit animum.* Upon the whole there appears no good reaſon to believe, that the eſtate of the crown was much diminiſhed before the reign of King Stephen, all whoſe grants, excepting thoſe he had made to the church, were reſumed by Henry the Second. It appears from a letter to the pope from the Engliſh parliament, in the reign of Henry the Third, that the clear revenue of the kingdom was then below ſixty thouſand marks *per ann.* The words are theſe: "Italici "percipientes in Angliâ *ſexaginta millia marcarum*, et eo amplius annuatim (aliis perceptionibus diverſis exceptis) *plus emolumenti meri redditus de regno reportant quam ipſe rex, qui eſt tutor eccleſiæ et regni gubernacula moderatur.*" The hiſtorian ſays in another place, "Et inventa "eſt ſumma reddituum eorum annuatim ſexaginta millia marcarum; "*ad quam ſummam non attingit redditus annuus totius regni Angliæ.*" But in both theſe places is meant not the king's private patrimony, or landed eſtate, but the publick revenue of the kingdom, which is often diſtinguiſhed from the other in our ancient records.

Daniel, p. 44.

L. iv. p. 69. de W. II.

V. M. Paris Hiſt. Angliæ, p. 666. ſect. 30. ſub ann. 1245. 1 edit.

P. 658. ſect. 50.

In a manuſcript treatiſe of Giraldus Cambrenſis, *De inſtitutione regis*, it is ſaid, that the annual *fiſcal* revenues amounted, in the time of Edward the Confeſſor, to juſt the ſame ſum. "Angliæ regum Anglorum tem-"pore, et penultimi Edwardi Weſtmonaſterienſis diebus, *annui fiſcales* "*redditus*,

V. Cotton. Librar. Julius, B. xiii.

" *redditus, ſicut Rotulo Wintonienſi reperiuntur, ad ſexaginta millia mar-*
" *carum ſummam implebant.*" By the annual *fiſcal* revenues I underſtand the ancient inheritance of the crown: for Bracton ſays, " Eſt res quaſi L. ii. c. 5.
" ſacra *res fiſcalis*, quæ dari non poteſt, nec vendi, nec ad alium tranſ-
" ferri à principe vel a rege regnante." But little regard is due to this evidence of Giraldus: for immediately afterwards he ſays, that in Henry the Second's time, by the continual grants made to ſoldiers, both from that prince and from Stephen, and by the wars between them, and afterwards with France, theſe fiſcal revenues were brought down to *twelve thouſand marks:* but he forgets that all the grants made by Stephen, or Matilda, except theſe to the clergy, were reſumed by Henry the Second at the beginning of his reign; and no other author has ſaid, that this prince, for the maintenance of his wars againſt France, ever alienated any part of the patrimony of the crown.

Ibid. *It is therefore evident, that a vaſt ſhare of the lands of England was poſſeſſed by Henry the Second, which was a conſtant ſupport to the royal dignity, independent of all taxes or impoſitions on his ſubjects, and which was conſidered as a ſacred and inalienable patrimony, tranſmitted to him from his anceſtors, the ancient kings of England*; &c.

In one of the articles exhibited in parliament againſt King Richard the Second it is ſaid, " that whereas the king of England by *the revenue*
" *of his kingdom and the patrimony belonging to his crown*, is able to live
" honourably *(honnetement)* without the oppreſſion of his people, *as*
" *long as the kingdom is not burdened with the charge of wars*; yet the
" ſaid king, in a manner for his whole time, during the truces between
" the kingdom of England and it's adverſaries, *hath not only given away*
" *a great, yea indeed the greateſt part of his ſaid patrimony, and this to*
" *unworthy perſons, but alſo hath further impoſed on his ſubjects ſo many*
" *burdens of monies granted, as it were every year of his reign*, that
" thereby he hath extreamly, and too exceſſively oppreſſed his people,
" to the impoveriſhment of his kingdom, *not converting the ſums ſo levied*
" *to the advantage and profit of the realm of England*, but prodigally
" ſquandering it away for the oſtentation of his name, and in pomp and
" vain-glory, *whilſt great ſums of money are owing in his kingdom for the*
" *victuals of his houſehold, and other things bought*, though he hath
" abounded with riches and treaſures more than any of his progenitors."

In this remarkable article is very clearly ſet forth the whole policy of our anceſtors, with regard to the different proviſions they made for the crown. It's ſupport *in time of peace was the patrimony belonging to it*

and

and the revenue of the kingdom. But *in war* they ſuppoſed it neceſſary, that the extraordinary charges ſhould be ſupplied *by grants from parliament.* The burthening the people with ſuch grants, or other impoſitions, in time of peace, the miſapplying them to vain-glory, while the charges of the houſehold were unpaid, and the giving away the *ancient patrimony*, intended for the maintenance of thoſe charges and of the honour and dignity of the crown, are conſidered by them as offences againſt the duty of a king.

Chief Juſtice Forteſcue.

There is alſo a paſſage in the treatiſe of Lord Forteſcue on abſolute and limited monarchy, which is very pertinent to this ſubject. For the greater eaſe of the reader, I ſhall give it in modern Engliſh and ſpelling. "The king, our ſovereign Lord, had, at times, ſince he reigned over us, "proviſion in lordſhips, lands, tenements, and rents, *near to the value of* "*the fifth part of his realm, excluſive of the poſſeſſions of the church; by* "*which proviſion, if it had conſtantly abided in his hands, he had been more* "*mighty in good revenues than either of the ſaid two kings* (viz. the ſoldan "of Egypt and the king of France), *or any king that now reigns in* "*Chriſtendom.* But this was not poſſible: *for to ſome part thereof the* "*heirs of them that ſometime owned it are reſtored*; ſome by reaſon of "*entails*; ſome by reaſon of *other titles, which the king has conſidered, and* "*thought them good and reaſonable.* And ſome part of the ſame proviſion "his good grace *has given to ſuch as have ſerved him ſo ſignally, that, as* "*their renown will be eternal, ſo it befitted the king's magnificence to make* "*their rewards everlaſting to their heirs; for his honour and their per-* "*petual memory.* And alſo the king has given part of the ſaid proviſion "*to his moſt honourable brethren, who not only have ſerved him in the manner* "*aforeſaid, but are ſo near in blood to his highneſs, that it befitted not his* "*magnificence to have done otherwiſe.*"

From hence it appears, that in the reign of Edward the Fourth, when this treatiſe was written, the wealth ariſing to the crown from it's landed eſtate and caſual profits, excluſive of ſubſidies and grants by parliament, was ſometimes *equal to one fifth of the lay property of the kingdom.* But that many of theſe profits were only temporary, and could not, from the nature of them, be retained by the king. On this I would obſerve, that, in ſome periods of the reign of Edward the Fourth, the eſtate of the crown muſt have been greatly encreaſed by the forfeitures of the Lancaſtrian nobles, and by the eſcheats that muſt have fallen into the hands of the king upon the extinction of heirs male in many noble families of his own party, during the bloody civil wars, with which the realm was then infeſted. Of the forfeitures a great part, before the

writing of this treatiſe, had been granted away by the king to thoſe of his own adherents who had done him good ſervice. And we ſee that Forteſcue thought ſuch grants not illegal nor improper. But of that great lawyer's opinion and advice on the ſubject of the royal revenue I ſhall have occaſion to ſay more in a ſubſequent note. I will only add here, that in another chapter he ſays, "*it was undoubted that the king* "*had a ſufficient proviſion for his ordinary charges.*" C. viii.

P. 289. *Theſe inquiſitions, or verdicts, were firſt methodiſed in the country, and afterwards ſent up to the king's Exchequer.*

In the archives of the church of Exeter are contained the returns for the counties of Wilts, Dorſet, Somerſet, Devon, and Cornwall, compiled from the original verdicts given in by the juries to the commiſſioners appointed for the making of that ſurvey. I have been favoured with the ſight of ſome very curious obſervations made on theſe manuſcripts, and on the leſſer and greater Domeſday-books, by the learned and ingenious Dr. Milles, dean of Exeter, which, when publiſhed, will give more light and inſtruction on this ſubject, than the world has yet received from any other writer.

The Book of Ely, from which I have taken the account of the manner in which the inquiſitions were made, conſiſts of two parts, the firſt containing the poſſeſſions of the church of Ely extracted from the original verdicts, which verdicts for fifteen out of the ſeventeen hundreds of Cambridgeſhire are contained in the ſecond part.

P. 292. *The greater eſcheats were let at farm, or committed to the cuſtody of perſons appointed by the king, to whom they accounted for the profits.*

Mr. Madox ſays, of theſe eſcheats, "that, after they had been long "veſted in the crown, *they were hardly to be diſtinguiſhed from the king's* "*ancient demeſne.*" But in this there ſeems to be ſome inaccuracy. For it muſt always have been eaſy to diſtinguiſh eſcheated baronies, and eſtates held by knight-ſervice, from the king's ancient demeſne; becauſe all tenants in *that demeſne* held by ſocage. And Mr. Madox himſelf ſays, in another part of his works, that a manor, *which was part of the ancient and original inheritance of the crown*, could not be called *an honour*, becauſe *it never was a barony, or in the ſeiſin of an earl or baron.* This muſt therefore have prevented any confuſion in the accounts of *the ancient demeſne lands, and of any honours or baronies eſcheated to the crown.* But it was neceſſary to diſtinguiſh between honours or baronies held originally of the crown, and thoſe devolved to it by eſcheat; becauſe, in the latter caſe, Hiſt. of the Exchеq. c. x.

V. Baroniam, l. i. c. i. p. 11.

caſe, the tenants, who before had held of the baron, became the tenants of the king, *non ſicut de corona*, but in the ſame manner as they had anſwered for their ſervices to the baron. Which diſtinction may have been loſt when they had been long eſcheated, and retained by the king, before the eſcheatry was formed, but, I think, not afterwards.

P. 295. *And therefore when writers ſay, that the lands of the crown were inalienable, it muſt be underſtood only of thoſe* in ancient demeſne, *not of theſe incidental or caſual poſſeſſions.*

This difference is well attended to and expreſſed by the commons in their petition to King Henry the Fourth for a reſumption of grants in the ſixth year of his reign. " Foraſmuch as the crown of the realm of Eng-
" land has ſuffered great diſparagement and diminution *(eſt grantement*
" *emblemiſſée et aneantiſſée)* by great and exceſſive grants, made to diverſe
" perſons, as well ſpiritual as temporal, of lands, tenements, feefarms,
" franchiſes, liberties, and other poſſeſſions, be it enacted in this preſent
" parliament, for the profit of the king and of the realm, and for the
" ſupport of the commons, that all caſtles, manors, lordſhips, lands,
" tenements, fees, and advowſons, feefarms, annuities, franchiſes, liber-
" ties, and cuſtoms, *which were members and parcels of the ancient in-*
" *heritance of the crown* in the fortieth year of the reign of King Edward
" grandfather of our Lord the preſent king, and from that time, whether
" given for life, or for a term of years in feeſimple or in feetail, or con-
" ditionally, or to the ſpiritual lords for themſelves and their ſucceſſors ;
" *except wardſhips, marriages, and eſcheats*, and what has been aſſigned to
" the queen in dower, ſhould be entirely reſumed, recovered, and ſeiſed
" into the hands of our Lord the king, *and rejoined to the crown, to re-*
" *main perpetually annexed to it, without being ever for the future, by any*
" *means or device whatſoever, ſeparated from it*, ſaving the grants made at,
" or after, the term beforementioned, of any parcels of the ſaid ancient
" inheritance of the crown, *by ſpecial charter confirmed by the authority of*
" *parliament.*"

V. Rot. Parl. 6 Hen. IV. n. 14.

Here the diſtinction between the ancient inheritance of the crown, and eſcheats or caſual profits, is evidently marked out: and as for the confirmation given to grants *out of the ancient inheritance* made in or before the fortieth of Edward the Third, it was neceſſary for the avoiding of the inconvenience and injuſtice that muſt always attend *the looking back too far* in acts of reſumption. Nevertheleſs the deſire of giving eaſe to the people induced the parliament to adviſe, that during the continuance of heavy wars, or at times when the crown was greatly oppreſſed with

debts, all ſuch caſual profits might remain in the hands of the king, for his own uſe and benefit. Thus, in the fifth year of Edward the Second, an ordinance was made, that, *to pay the debts of the king, and raiſe up his ſtate, and maintain it more honourably*, no grant of land, or rent, or franchiſe, or *eſcheat*, or of *wardſhip* or *marriage*, or of bailiwick, ſhould be made &c. *till his ſtate ſhould be raiſed up* &c. And thus, in the firſt year of Richard the Second, the commons prayed for an enquiry into the grants of caſtles, towns, lands, tenements, bailiwicks, *wardſhips*, *marriages*, *eſcheats*, and *reliefs*, made by Edward the Third, to ſee whether they had been worthily or unworthily beſtowed; that where they had been properly given, they might be confirmed, but where the king had been deceived, they might be reſumed, and not granted again to the ſame perſons, or any others, *till his debts were paid, and a better proviſion made for the princes his ſons.* In the fifth of the ſame king the commons again petitioned, that no grant ſhould be made of any land, rent, marriage, *or any kind of eſcheat* to any perſon whatſoever, *till the king ſhould be out of debt, and out of ſuch charges of war as lay upon him at that time.*

V. Rot. Ord. 5 Edw. II. n. 3.

V. Rot. Parl. 1 R. II. n. 48.

V. Rot. Parl. 5 R. II. p. 1. n. 74.

But the king only promiſing, *that he would make no new grants without the conſent of the lords and others of his council*, they renewed their petition the next year, that *all kinds of wardſhips, marriages, reliefs, eſcheats, forfeitures*, and all other profits, *might be kept for the king's wars and the defence of his kingdom*, in ſupport and aid of his *poor commons*, and not otherwiſe beſtowed. To which he alſo returned no other anſwer, than that he was willing and deſirous to proceed in this matter *by the advice of the lords of his kingdom, as it ſhould ſeem to him moſt conducive to his honour and profit.* Yet in his ninth year he conſented to the deſire of his parliament, *that all his revenues ſhould be laid up for one whole year without any diminution thereof by gift or grant.* And in his eleventh year the commons prayed, that all forfeitures lately incurred of lordſhips, lands, &c. and all eſcheats and other profits, which had fallen, or ſhould fall, into the hands of the king, by any means whatſoever, might remain in them *during the wars, to diſcharge his debts, and in aid of the maintenance of his ſtate, and alſo for the eaſe and relief of the poor commons of his realm:* which he granted with ſome reſtrictions. So likewiſe, in the eleventh of King Henry the Fourth, the commons prayed, that no grant be made of any hereditaments or other profits of the crown, except offices and bailiwicks, *till all the debts then due from the king to his ſubjects ſhould be entirely diſcharged, and with enough remaining in the hands of the king and his royal ſucceſſors for the reaſonable ſupport*

V. Rot. Parl. 6 R. II. n. 42.

V. Rot. Parl. 9 R. II. n. 42.

V. Rot. Parl. 11 Hen. IV. n. 23.

port and maintenance of his houſehold, chamber, and wardrobe: which the king aſſented to with ſome reſervations.

It would be tedious to give more inſtances of the ſame nature; but I will add, that when any ſeignory had been annexed to the crown by act of parliament, the parliament conſidered the lands belonging thereunto as being equally inalienable with the ancient inheritance of the crown; and, no doubt, with good reaſon. It muſt alſo be noted, that on the ancient demeſnes of the crown were built many royal caſtles and fortreſſes held by knight-ſervice or caſtle-guard, which, when alienated by our kings, were very properly and juſtly reſumed; as we find to have been done, with the advice and conſent of parliament, by Henry the Second. But, if *all eſcheats, forfeitures, and other caſual profits,* had been likewiſe deemed inalienable, the crown, perpetually receiving, and rendering nothing back, would ſoon have drawn to itſelf, by means of theſe incidents, all the lands and wealth of the kingdom. Nevertheleſs, in the treatiſe of Lord Chief Juſtice Forteſcue, cited before in theſe notes, King Edward the Fourth is adviſed, that, in order to anſwer extraordinary and ſudden charges, for which he could not have the ready aſſiſtance of his parliament, a perpetual proviſion ſhould be made, by a general reſumption of all the lands he had granted away (except thoſe given to his brothers, and ſome others who had ſignally ſerved him); which reſumption ſhould be authoriſed by act of parliament, and at the ſame time a great ſubſidy ſhould be granted to the king for the rewarding in money thoſe grantees, who, by the opinion of a council, to be eſtabliſhed for that purpoſe, ſhould be found to have deſerved it. All the lands thus redeemed he propoſed to annex for ever to the crown, ſo as not to be alienated without conſent of parliament: to ſupport which advice he gives many weighty arguments, ſuch as the miſchiefs that muſt enſue to a realm from the poverty of a king, which he moſt judiciouſly ſets forth; and the evils that would follow his relieving his neceſſity by impoveriſhing and oppreſſing the commons. He likewiſe diſplays very wiſely the great peril to the ſtate, if any nobleman has more to ſpend than the king; for which reaſon he intimates, that the king, in diſpoſing of his noble wards in marriage, ſhould prudently take care, that too great additions might not be made to their wealth; and that he ſhould encreaſe his own by the caſualties of eſcheats and forfeitures, and alſo by purchaſing land from ſuch of his nobles as were deſirous to ſell, which none could do without his licence. On all this I would obſerve, that every good purpoſe propoſed by this able lawyer and wiſe ſtateſman is much better anſwered by our preſent method of providing for the maintenance of the

See Forteſcue on Abſolute and limited monarchy.

Ibid. c. xi. p. 84. c. xiv. c. xix.

C. v.

C. iii. iv. x.

C. x. p. 76, 77.

honour

honour and dignity of the crown, in ſettling on the king, for his life, a clear annuity, of ſuch value, as may be ſufficient for all charges both ordinary and extraordinary, except thoſe which, from the nature of them, ought, in good policy, to be reſerved for the conſideration of parliament. Thus no danger to the ſtate can be likely to ariſe from *the poverty of the king*, nor, on the other ſide, from the balance of power being hurt by too great a weight of *landed property* in the ſcale of the crown, a danger to which it does not ſeem that our anceſtors were ſufficiently attentive. And the alterations of our law with regard to the power of alienating lands, with other changes that have happened in the ſtate of our nobility ſince Forteſcue wrote, have taken away that apprehenſion he ſo juſtly conceived of any ſubjects being made, by the greatneſs of their eſtates, as powerful as their ſovereign. The danger now appears to lie the other way, namely, that the poverty of ſome of our nobles may, at certain times, make them too dependent on the king; which, while baronies were territorial, could not poſſibly happen; as there was always, under that conſtitution of the peerage, a ſufficient eſtate annexed to every *honour*, for the maintenance of the baron, according to his rank, without his having recourſe to the bounty of the crown.

P. 296, 297. *But the higheſt payments of this nature which I meet with in the rolls, till after the thirty firſt year of Henry the Third, were made to that king, by John earl of Lincoln, and by Simon de Montfort; the former of theſe having given three thouſand marks, to have the marriage of Richard de Clare, for the benefit of Matilda, his eldeſt daughter, and the latter ten thouſand to have the cuſtody of the lands and heir of Gilbert de Unfranville until the heir's full age, with the heir's marriage, and with adowſons of churches, knights-fees, and other pertinencies and eſcheats.*

One ſtill greater payment, being the double of the higheſt above-mentioned, had eſcaped my obſervation in another part of Mr. Madox's Hiſtory of the Exchequer, p. 322. He ſhews from the great roll of the ſecond of Henry the Third, that Geoffry de Mandeville gave twenty thouſand marks, that he might have to wife Iſabel counteſs of Gloceſter, with all her lands and knights-fees, a moſt enormous ſum, conſidering the value of ſilver in thoſe days!

P. 301. *I find no account of what was taken by Henry the Second for another feudal due, viz. on the making his eldeſt ſon a knight.*

Mr. Selden takes notice, in his Book on Titles of Honour, that with reſpect to our kings this aid continued arbitrary till the ſtatute of the twenty

See part i. cap. v. ſect. 37.

twenty fifth of Edward III, which put the king in the like condition with ordinary lords, who, by a former ſtatute of the third of Edw. I, had been reſtrained from taking more on this account than twenty ſhillings from every tenant of a whole knights-fee, and the ſame from every one who held lands in ſocage of the yearly value of twenty pounds, and ſo *pro rata*; but that none of it ſhould be levied until the ſon were of the age of fifteen years, which is called, by Breton, *l'age pur ordre de chivaler prendre.*

P. 303. *And both theſe laws ſeem to refer to a preceding ſtatute, now loſt, by which the feudal policy of the Normans had been eſtabliſhed in England.*

The words of reference, in one of theſe ſtatutes, namely, the fifty fifth, are as follows: "*Prout ſtatutum eſt eis, et illis a nobis datum et conceſſum jure hæreditario in perpetuum per commune conſilium totius regni noſtri prædicti*;" and in the other (the fifty eighth), "*ſicut illis ſtatuimus per commune conſilium totius regni noſtri prædicti, et illis dedimus et conceſſimus in feodo jure hæreditario.*" Sir H. Spelman, ſpeaking of the latter of theſe laws, ſays, "here the word *ſtatuimus* ſheweth, that it was the Conqueror's inſtitution, and *conceſſimus in feodo jure hæreditario* implyeth, that feuds were not hereditary before *this grant.*" By *this grant*, I preſume he does not mean *this ſtatute*, but the grant referred to therein. I cannot agree with the learned author of the *Introduction to the Law of Tenures*, in thinking that both theſe laws refer to the fifty ſecond of that king, which runs in theſe words: "*Statuimus etiam ut omnes liberi homines fœdere et ſacramento affirment, quod intra et extra univerſum regnum Angliæ (quod olim vocabatur regnum Britanniæ) Willielmo regi domino ſuo fideles eſſe volunt, terras et honores illius omni fidelitate ubique ſervare cum eo, et contra inimicos et alienigenas defendere.*" On this law I have before made ſome obſervations, p. 181. book ii. vol. ii.—The purport of it ſeems to be, the impoſing of an oath of confederacy, or aſſociation, for the defence of the king, and of all his territories and dignities both in and out of Great Britain. But it does not appear to *give* any thing; nor is there the leaſt mention in it of the great alteration made in the tenures of lands and the policy of the realm by this king and his parliament, in rendering the eſtates of the Engliſh *hereditary fiefs, to all perpetuity*, which is expreſly taken notice of in the two other ſtatutes, and called a *grant* or *conceſſion*. The words of it are likewiſe very different from thoſe of the uſual oath of fealty. I am therefore obliged to differ with the learned writer abovementioned in his opinion, that

See Wright's Tenures, p. 65 to 74.

that this law introduced into England the Norman feudal tenures, and is referred to in the fifty fifth and fifty eighth laws before-recited; nor can I agree with him, that the *liberi homines* mentioned in thoſe laws were no others but the tenants in chief of the king.

Ibid. *Whether this difference aroſe from any other ſtatute made by William the Firſt, after the two abovementioned, or from a narrow and unfavourable conſtruction thereof, by a ſubſequent uſage, I cannot ſay.*

There is much obſcurity in this matter: but by the *Inquiſitio Gheldi*, which is found among the Exeter manuſcripts mentioned in a former note on Domeſday-book, and no where elſe in the kingdom (being an account of the money levied for danegelt in the five weſtern counties at the time when the ſurvey was made by William the Conqueror) it appears, that among the demeſne lands exempted from that tax were the lands of all the *ſervientes regis*, under which deſcription are contained, not only thoſe who held of him by knights-ſervice, but *præpoſiti*, *camerarii*, *hoſtiarii*, *mareſcalli*, *coci*, *focarii*, *carpentarii*, *venatores*, *parcarii*.

In four of the weſtern counties the exempted demeſne amounted to one third, and in the fifth, viz. Somerſetſhire, to one fourth of the whole land.

P. 304. *However this may have been, it is declared, moſt explicitly, by King Edward the Firſt, in his confirmation of the charters, that the aids, free gifts, and other impoſitions, irregularly taken or levied by him or his miniſters, before that time, for his wars or other neceſſities, ſhould not be drawn into precedent becauſe they might be found recorded on the rolls: and he therein grants to the nobility and commonalty of the realm, that, for the future, he would not, for any neceſſity whatſoever, take any ſuch aids or impoſitions, without the common aſſent of the whole kingdom, and to the common benefit thereof; with a reſerve of the ancient aids and impoſitions due by cuſtom.*

Nothing can be more expreſs than this declaration. Nevertheleſs, in the fifty firſt of Edward the Third, upon the parliament's renewing their claim to the king, *that in time to come the prelates, earls, barons, commons, citizens, and burgeſſes of his realm of England may not henceforth be charged, moleſted, nor grieved to make any common aid, or ſuſtain any charge, unleſs it be by common aſſent of the prelates, dukes, lords, and barons, and other people of the commons of his realm of England, and that in full parliament*; his anſwer was, "that he is not at all willing to do it, *without great neceſſity, and for the defence of the realm, and where he may do it*

See Cotton's Abridgement of the Records in the Tower, p. 152. 51 Edw. III.

" *it with reaſon.*" Theſe ſavings, the laſt eſpecially, ſeem to ſet the whole looſe. On this I would obſerve, that, although it was dangerous to allow any latitude of this nature in the raiſing of money without conſent of parliament, yet there was alſo a danger, which might attend the reſtraint in caſes of real and urgent neceſſity, or even where advantages of importance might be loſt by waiting till the time when the parliament ſhould be ſitting, and the ſupply could be granted there in the uſual forms. This ſeems to have been one cauſe of the two frequent violations of this great and acknowledged right of parliament, as well as a ſpecious pretence for them on many occaſions; eſpecially under the Tudors, and the two firſt kings of the Stewart family: but the difficulty has been obviated by the expedient recurred to in later times of making proviſion for ſuch contingences by *votes of credit* in time of war, and even, on ſome occaſions, in time of peace, when there appears to be cauſes for apprehending danger, or much inconvenience to the publick, from tying the government up by the uſual reſtrictions. But great care ought to be taken, that this truſt, which the parliament repoſes in the government, ſhould be *limited as to the ſum*, and given under the obligation of being *ſubject to account*. Nor ought ſuch votes to be ever paſt *in time of peace*, without a moſt apparent reaſon, upon ſome clear proſpect of great benefit from enabling the government to make ſubſidiary treaties with foreign powers during the receſs of parliament, or other ſuch weighty motives. Under theſe cautions, the uſe of *votes of credit and confidence* is a means of delivering that great ſecurity of our property and freedom, the ancient claim of our parliaments *that no aids or taxes ſhall be levied without their aſſent*, from thoſe objections of inconvenience and danger to the ſtate, which many writers on the ſide of abſolute monarchy have formerly brought againſt it with ſome ſhew of reaſon.

See Barclay and others.

I cannot better end this note on this very important ſubject, than by tranſcribing ſome paſſages from that excellent treatiſe of Lord Chief Juſtice Forteſcue on Abſolute and limited monarchy, which, next to the laws recited in the Bill of Rights, is one of the nobleſt monuments we have of the liberties enjoyed by our anceſtors. In his third chapter he ſays, that " on account of the great wars which the Engliſh made in " France the three eſtates durſt not aſſemble. And then, for that cauſe, " and for great neceſſity which the French king had of goods for the " defence of his kingdom, he took upon him to ſet *tailles* and other " impoſitions upon the commons *without the aſſent of the three eſtates*; " but yet he would not ſet any ſuch charges, nor has ſet, upon the nobles, " for fear of rebellion. And becauſe the commons, though they

" grudged,

" grudged, have not rebelled, or be hardy to rebel, the French kings " have yearly ſince ſet ſuch charge upon them, and ſo augmented the " ſame charges, *that the ſaid commons be ſo impoveriſhed and deſtroyed as* " *they can ſcarce live.* They drink water, they eat apples, with bread " very brown made of rye. They eat no fleſh, but very rarely, a little " bacon, or of the entrails or heads of beaſts ſlain for the nobles and " merchants of the land. They wear no woollen, but a poor coat un- " der their outermoſt garment made of broad canvaſs, and call it a frock. " Their hoſe are of like canvaſs, and reach not above their knee; " wherefore they be gartered, and their thighs bare. They can live no " otherwiſe: for ſome of them, that were wont to pay to their lords for " their tenements, which they take by the year, a crown of gold, pay " now to the king, over and above that crown, five crowns. From " whence they are preſt by neceſſity ſo to watch, labour, and grub in the " ground for their ſuſtenance, that their nature is much waſted, and the " kind of them brought to nought. They go crooked, and are feeble, " not able to fight nor to defend the realm; nor have they money to " buy them weapons withall: but verily *they live in the moſt extreme po-* " *verty and miſery*; and yet they dwell in one of the moſt fertile realms " of the world: through which it happens that the French king has " not men of his own realm able to defend it, except his nobles, who en- " dure no ſuch impoſitions, and have therefore ſtrong bodies. By which " cauſe the ſaid king is compelled to make his armies and retainers for " the defence of his land, *of ſtrangers*, as Scots, Spaniards, Arragoneſe, " Germans, and other nations; or elſe all his enemies might over-run him. " For he hath no defence of his own, except his caſtles and fortreſſes. " *Lo! this is the fruit of his Jus regale.* If the realm of England, " which is an iſland, *and therefore may not eaſily get ſuccours of other lands*, " were ruled under *ſuch a law*, and under *ſuch a prince, it would be then* " *a prey to all other nations, that would conquer, rob, and devour it.*"

It will not be neceſſary to enter here into any diſquiſition, whether the time *when*, and the manner *how*, the kings of France obtained an abſolute monarchy, called here *Jus regale*, with a power of taxing their people *without the aſſent of the three eſtates*, be rightly fixed by this writer. It is ſufficient to obſerve, that, as he had lived many years in France, where he took refuge with the ſon of King Henry the Sixth, his pupil, we cannot doubt the truth of the deſcription he gives of the poverty and miſery of the people there from ſuch arbitrary impoſitions. And with relation to the peaſants and tillers of the ſoil much of it ſtill continues. He thus proceeds in his compariſon of the kingdoms of England and France,

" But, bleſſed be God, *this land is ruled under a better law, and therefore*
" *the people thereof be not in ſuch penury, nor thereby hurt in their perſons*;
" *but they be wealthy and have all things neceſſary to the ſuſtenance of na-*
" *ture. Wherefore they be mighty, and able to reſiſt the adverſaries of the*
" *realm, and to beat other realms that do, or would do, them wrong.*
" *Lo! this is the fruit of* Jus politicum et regale, *under which we live.*
" Somewhat now I have ſhewn you of the fruits of both laws, *ut ex*
" *fructibus eorum cognoſcatis eos.*" Let me now aſk, is not this a moſt remarkable teſtimony of the freedom of the Engliſh government, and the eaſy ſtate of the commonalty, under our ancient conſtitution, even after the great diſturbance which the utmoſt rage of civil war had occaſioned in the kingdom? Will it be ſaid, againſt an evidence ſo clear and expreſs, that, till within this laſt century, the charters granted by our kings were of no real value or benefit to the people? Our liberty has certainly been confirmed, improved, and ſtrengthened, and a better form has been given to it, during that period and part of the preceding century; but it ſtands on the old foundations; and a great portion of its vigour is drawn from that root, which made it flouriſh in the times that Forteſcue here deſcribes; a root fixed in the Engliſh ſoil, and carefully cultivated, many ages before. I will go on to recite ſome other remarkable paſſages from this admirable work, which I wiſh were read and got by heart by every young Engliſh gentleman, before he travels into France. The author ſays, in his 4th chapter, " Seeing that our king reigneth over us by laws
" more favourable and good to us, than be the laws by which the French
" king ruleth his people, it is reaſon we be to him more good and more
" profitable than be the ſubjects of the French king unto him, which it
" would ſeem that we be not, *conſidering that his ſubjects yield to him more*
" *in one year, than we do to our ſovereign Lord in two years*, although they
" do it againſt their wills."

I have obſerved in another place that this defect of revenue has been ſince ſupplied to the crown by the ſettlement of a proper and ample *civil liſt* on our kings, for the maintenance of the honour and dignity of the crown; and by annual grants for publick ſervices ſo bountifully given, according to the exigences of government, that no abſolute monarchy was ever ſupplied by its ſubjects in proportion to their numbers, with an equal liberality.

The ſame author goes on thus: " Nevertheleſs, when it is conſidered,
" that a king's office conſiſts in two things, one to defend his realm
" againſt it's enemies without, another, to defend his people againſt
" wrong-doers within, which the French doth not; *ſince he oppreſſeth*
" *them*

" *them more himſelf than would have done all the wrong-doers of the realm,* " *though they had had no king:*

" And ſince it is a ſin to give no meat, drink, cloathing, or other " alms to them that have need, as ſhall be declared in the day of doom, " *how much a greater ſin is it, to take from the poor man his meat, his* " *drink, his cloathing, and all that he hath need of? Which verily doth* " *the French king to many thouſands of his ſubjects*; as it is openly before " declared. Which thing, though it be coloured *per jus regale*, yet it " is *tyranny:* wherefore, albeit that the French king's revenues be, " by ſuch means, much greater, than be the revenues which the king " our ſovereign Lord hath of us, yet they be not righteouſly taken, " and the might of his realm is near deſtroyed thereby. By which " conſideration *I would not that the king's revenues of this realm were made* " *great by any ſuch means.*

And in his tenth chapter he mentions the impoſitions taken by the duke of Burgundy upon every ox, every ſheep, and upon other things ſold, and alſo *upon every veſſel of wine, every barrel of beer*, and other victuals ſold in his dominions; " *which* (ſays he) *is no little revenue to* " *him yearly*; but yet he doth it maugre the people; *which God forbid* " *that the king our ſovereign Lord ſhould do upon his people, without their* " *grants and aſſents.* Nevertheleſs, *with their aſſents* ſuch manner of " ſubſidy, if there could not be found a better means of encreaſing the " king's revenue, were *not unreaſonable.* For therein, *and in the gabel* " *of ſalt, every man ſhall bear an equal charge.* But yet I would not " that ſuch a new cuſtom and charge were put upon the people, in our " ſovereign Lord's days, *with which his progenitors charged them never*, if " a better and more convenient way could be found."

I need not obſerve that ſuch taxes have *in ſome degree* been ſince laid. But the chief inference I would draw from theſe citations is this. If the learned judge who wrote thus, concerning the laws and conſtitution of England, under King Edward the Fourth, could have revived in the reign of Charles the Firſt, what opinion would he have given upon the arbitrary impoſitions laid by that prince on his people *without their grants or aſſents?* Would he have ſaid, *it was the ancient prerogative of the crown to raiſe money in that manner?* Would he have thought it agreeable either to *policy* or to *law?* Would he have told that unhappy prince, as ſome of his biſhops told him, *that it was the duty of his people to ſubmit to ſuch impoſitions without reſiſtance*; that his *jus regale* was inherent in him *jure divino*, and uncontroulable by any human power? Or would he have ſatisfied his conſcience, as Dr. Brady and others tried to

ſatisfy the conſciences of his ſons Charles and James, by perſuading him that the privileges, on which the commons inſiſted, had been extorted from King John by rebellious barons, and did not extend to the commons, who in thoſe days *were all ſlaves?*

Laſtly I aſk, are we to take our ideas of the rights and liberties of our anceſtors from the connected ſeries of their laws, and from the writings of their greateſt and moſt approved lawyers, eſpecially ſuch as treat of government and the conſtitution of England, or from irregular acts of power, and inconſiderate or corrupt proceedings in parliaments or courts of juſtice, under particular reigns, and at particular times?

P. 308. *The religious notions of the times, and laws founded thereupon, forbidding uſury to all Chriſtians, and not diſtinguiſhing between that and a reaſonable intereſt for money upon loans; without which neither commerce could well be carried on, nor the ſudden exigences of the government, or of particular perſons, be ſupplied, the Jews were neceſſary as money-lenders*; &c.

The Jews underſtand, that by the law of Moſes they are forbidden to lend money *to one another* upon intereſt; but may practiſe uſury to any height in their dealings with foreigners, without offence againſt *that law.*

P. 316. *Yet there were ſome of ſtone, and of a handſome architecture, according to the taſte of thoſe days*, &c.

V. Benedict. abbat. v. i. p. 197. ſub ann. 1177.

The abbot of Peterborough mentions *a ſtone houſe (domum lapideam)* of a rich citizen in London. It can therefore hardly be doubted that the houſes of the nobility, built in that city or it's ſuburbs, which Fitz-ſtephen ſpeaks of as magnificent, were likewiſe of ſtone.

P. 320. *We have a charter of King Henry the Third in the Engliſh of that time, which, as it is curious to ſee how near the language approached to that of the preſent century, I have given, with a tranſlation of it into modern Engliſh, in the Appendix to this book*, &c.

See Camden's Remaines concerning Britain p. 24.

Mr. Camden tells us, that in the time of King Henry the Second he finds this *rime* ſent from Rome by Pope Adrian, an Engliſhman, to be taught to the people:

Ure fadyr in heaven rich
Thy name be halyed ever lich:
Thou bring us thy michell bliſſe

Als

Als his in heaven y doe
Ever in Yearth been it alſo.
That holy bread that laſteth ay
Thou ſend it ous this ilke day.
Forgive ous all that we have don,
As we forgivet uch other mon :
Ne let ous fall into no founding
Ac ſhield us fro the fowle thing.
Amen.

But this learned author does not ſay on what authority he ſuppoſes, that theſe verſes were as ancient as the time of pope Adrian. They ſeem to me much more modern, and nearer to the preſent Engliſh than the charter of Henry the Third, which I have given as a ſpecimen of the language in his time.

P. 321. *Indeed thoſe who in that age were beſt qualified to be authors all wrote in Latin.*

Among theſe are ſome poets, of whom by far the moſt eminent was Joſeph of Exeter, called Joſephus Iſcanus. In his youth, he wrote only ſome epigrams and love-verſes, none of which are preſerv'd: but in his riper age his genius took much higher flights, above the pitch of any contemporary poets. For he wrote two epic poems in Latin heroic verſe; the firſt on the ſubject of the Trojan war, in five books, which he dedicated to Thomas Baldwin archbiſhop of Canterbury, and of which Leland and Camden have given us ſome ſpecimens, that ſeem indeed much more elegant, and nearer the ſpirit of true Latin poetry, than any other compoſitions of our countrymen in thoſe times. I will tranſcribe a few lines, to give my reader a taſte of his ſtyle and manner. He ſays to the archbiſhop his patron, who was going to the holy war,

V. J. Lelandi Comus de ſcr. Britan. c. 217.

" Te ſacræ aſſument acies, divinaque bella.
" Tunc dignum majore tuba, tunc pectore toto
" Nitar, et immenſum mecum ſpargere per orbem.

And afterwards,

" Altera ſacræ
" Tendo fila lyræ; plectro majore canenda
" Antiochæ me bella vocant: nunc dicere votum eſt
" Chriſticolas acies, et noſtræ ſigna *Sibyllæ*.
" Quæ virtus, quæ dona crucis: nec fundit anhela
" Hos mihi Cyrrha pedes; animi fidentis hiatum
" Celſior e cœlo venit impleturus Apollo.

" Tu quoque, magne pater, noſtri fiducia cœpti
" Altera, et in pelago pandens mihi vela ſecundo,
" Hoc tibi ludit opus: ſuccedit ſerior ætas,
" Seria ſuccedunt aures meritura pudicas;
" Si tuus in noſtros candor conſenſerit auſus,
" Non metuam culicis ſtimulos, fucique ſuſurrum.

V. Leland. ut ſupra c. 197. de T. Baldui-no.

The promiſe he makes in theſe verſes of another poem on the ſubject of the cruſade, he fulfilled, and publiſhed that poem after the death of Baldwin, but in what year is uncertain. Leland only ſaw a fragment of it, in which the writer takes occaſion to praiſe his native city Exeter, " *tam exqui-* " *ſite* (ſays Leland) *ut facile credas Muſas ipſas, cum profluenti Helicone toto,* " *vati ea concinenti præſentiſſimas adfuiſſe.*" It muſt however be obſerved, that this author is too apt to be laviſh of his praiſe, and writes always much more as a panegyriſt than a critic. Joſeph of Exeter lived to a very old age, and made a new edition of his poem *de bello Trojano* in the reign of Henry the Third. The matter of it is taken, not from Homer, but Dares Phrygius, whoſe fabulous hiſtory was much in vogue at that time. From thence Mr. Camden has cited the following verſes, to ſhew the talent of this writer for poetical deſcription:

See Camden's Remaines, p. 313.

" Haud procul incumbens intercurrentibus arvis
" Idæus conſurgit apex, vetus incola montis
" Sylva viret, vernat abies procera, cupreſſus
" Flebilis, interpres laurus, vaga pinus, oliva
" Concilians, cornus venatrix, fraxinus audax,
" Stat comitis patiens ulmus, nunquamque ſeneſcens
" Cantatrix buxus: paulo proclivius arvum
" Ebria vitis habet, non dedignata latere
" Cancricolam poſcit Phœbum, vicinus ariſtas
" Prægnantes fœcundat ager, non plura Falernus
" Vina bibit, non tot paſcit Campania meſſes."

But in an edition I have ſeen of this poem printed at Baſil, with Homer's Iliad and Odyſſey, the firſt line runs thus:

" Haud procul incumbens urbi, mediantibus arvis,
" Idæus conſurgit apex, &c."

To theſe ſpecimens I will add the deſcription of Ajax Telamon fighting againſt the Trojans.

" Parte furens aliâ cognatos impiger hoſtes
" Turbabat Telamone ſatus, ſeptena coruſcans
" Terga boum: haſta viro quercus jaculabilis uni
" Unam paſſa manum: non ferrea ſuta ſuperbum

Velavere

" Velavere latus; ſive has bellare proterva
" Non tulit ira moras, ſeu lato pectoris orbe
" Se totum latuiſſe ratus, ſic ſævit inermis
" Sic premit armatos: maturat fata cadentum
" Terror, et ignavis mors eſt vidiſſe furentem."

Though the Latin in theſe and other parts of this work is not quite pure and grammatical, yet it is more ſo than in moſt other verſes of that age; and in the ſpirit of poetry and harmony of numbers it far excells the Philippiad of Guillaume de Breton, a contemporary epic poem.

In a much lower ſtrain, but with great vivacity and facetious good humour, did the jovial bard, Walter de Mapes, archdeacon of Oxford, who may be called the Anacreon of the eleventh century, ſing his Leonine rimes in praiſe of good drinking; a ſpecimen of which I will here tranſcribe: See Camden's Remaines.

" Mihi eſt propoſitum in tabernâ mori:
" Vinum ſit appoſitum morientis ori:
" Ut dicant, cum venerint, angelorum chori,
" Deus ſit propitius huic potatori.
" Poculis accenditur animi lucerna,
" Cor imbutum nectare volat ad ſuperna,
" Mihi ſapit dulcius vinum in taberna,
" Quam quod aquâ miſcuit præſulis pincerna.
" Suum cuique proprium dat natura munus;
" Ego nunquam potui ſcribere jejunus:
" Me jejunum vincere poſſet puer unus:
" Sitim et jejunium odi tanquam funus.
" Tales verſus facio quale vinum bibo:
" Non poſſum ſcribere niſi ſumpto cibo:
" Nihil valet penitus quod jejunus ſcribo
" Naſonem poſt calices carmine præibo.
" Mihi nunquam ſpiritus prophetiæ datur,
" Niſi cum fuerit venter bene ſatur:
" Cum in arce cerebri Bacchus dominatur,
" In me Phœbus irruit, ac miranda fatur."

P. 324. *But, though much was ſtolen by this author, he added enough of his own, to give him a conſiderable rank, in the opinion of Sir H. Saville and Mr. Selden, among the many hiſtorians who flouriſhed in the eleventh and twelfth centuries.*

Of

Of theſe hiſtorians, beſides thoſe mentioned in the text, Gervaſe of Canterbury and Diceto are frequently referred to in the courſe of his work. They are large in their account of church affairs, and not uſeleſs to a compiler of the hiſtory of thoſe times in their accounts of other matters. Brompton's chronicle is in many places a tranſcript from Gervaſe and Giraldus Cambrenſis; but he has added copies of ſome records and ancient laws, which are not to be found in thoſe authors, and make his work of ſome value.

P. 326. *Some of his letters are animated with* a *ſpirit of liberty, which would have done honour to a Greek or Roman republican:* &c.

It may be worth while to give the reader a ſpecimen of this ſpirit from one of his letters to the biſhop of Worceſter, who was ſon to the great earl of Glouceſter, often mentioned in this work. His words are theſe: "Filium alloquor illuſtris comitis, *qui in regum catalogo dignus fuerat nu-* " *merari, niſi quia magnificæ virtutis titulo meruit, ut, in libertatis cul-* " *mine conſtitutus, reges viderit in ordine ſecundo.*" The ſenſe of which may be thus expreſſed in an Engliſh tranſlation: "I ſpeak to the ſon of " that illuſtrious Earl, who would have been worthy to be reckoned " in the catalogue of kings, if his virtue and magnanimity had not raiſed " him ſo high, that, *being placed at the head of a free people, and their* " *leader in defending the cauſe of liberty, he ſaw kings in a rank below his* " *own.*" V. epiſt. S. T. C. e cod. Vatican. lib. ii. epiſt. 96.

P. 333. *He ſays, the houſes, on ſuch occaſions, were ſtrewed with flowers, and the jovial company drank wine out of gilded horns,* &c.

Agreeably to this deſcription we are alſo told by Fitſtephen, that Becket, when he was chancellour, ordered his hall to be ſtrewed every day in the winter with freſh ſtraw or hay, and in ſummer with ruſhes or green leaves freſh gathered, that the multitude of knights, which the benches could not contain, might ſit on the floor, thus rendered clean and gay, without dirtying their fine garments. "Juſſerat quaque die " novo ſtramine vel fœno in hieme, novis ſcirpis vel frondibus virenti- " bus in æſtate, ſterni hoſpitium ſuum; ut militum multitudinem, quem " ſcamna capere non poterant, area munda et læta reciperet; ne veſtes " eorum pretioſæ, vel pulchræ eorum camiſiæ, ex areæ ſorde maculam " contraherent." It may be worth remarking, that ſtill at the coronation of our kings, Weſtminſter-hall is ſtrewed with herbs.

But even in Becket's days this ruſtic ſimplicity was mixed with great magnificence in gold and ſilver plate; for the author above cited goes on

to ſay, that, "*vaſis aureis et argenteis domus ejus renidebat.*" I will add, that I have ſeen, in the treaſury of St. Bertin's church at St. Omers, a ſilver veſſel of that age, the form and workmanſhip of which are as elegant as any now made.

P. 336. *But it appears, that, in the times of Henry the Second, the whole gentry of England, having adopted the faſhions of the Normans, were as magnificent in their dreſs as their fortunes could bear.*

Mr. Camden ſays, that in this age the uſe of ſilk made by ſilk-worms was brought out of Greece into Sicily, and then into other parts of Chriſtendom. He likewiſe mentions a coſtly ſtuff, called in Latin *aurifriſium*, which was worn in England at this time. With regard to the mode of dreſs the ſame learned antiquary obſerves, that king Henry the Second brought in the ſhort mantle, and was therefore ſurnamed *Court-mantel.* Yet by other proofs it appears, that long flowing gowns, after the faſhion of the Eaſt, continued to be worn by the nobility and gentry in his time. See Camden's Remains, p. 194.

NOTES

NOTES

TO THE

THIRD BOOK

OF THE

Life of King Henry the Second.

PAGE 346. *For this purpoſe the archbiſhop had before employed John of Saliſbury, to compile a book, chiefly drawn from the writings of Eadmer, a monk contemporary with Anſelm, in which, with an account of the merit of that prelate to Rome and the church, ſeveral miracles, ſaid to have been done by him during his life, and after his death, were recorded.*

V. Johan. Sariſb. de vitâ Anſelm. in Angliâ Sacrâ, p. 165. Ibid. p. 156.

It is ſaid, in the abovementioned book, that a hare purſued by a pack of dogs having run under the feet of Anſelm's horſe for protection, he, in compaſſion to the poor little beaſt, bid her go off ſecurely, *and by the authority of his word alone reſtrained the hounds.* We are alſo told in another place, that being to dine with a monk, who had nothing for his dinner but bread and cheeſe, he bid him caſt his net into a neighbouring river, and aſſured him he ſhould take a fiſh big enough to feed the whole company: the monk did ſo, *and a fiſh of a wonderful magnitude was inſtantly caught, to the great aſtoniſhment of all preſent.* There are other ſtories, if poſſible, ſtill more ridiculous; but theſe are ſufficient to inſtruct us what regard is due to that legend, and what abſurdities the credulity of thoſe times could ſwallow. At the ſame time it muſt be noted, that the author of this book was one of the moſt ſagacious and learned men of that age: but neither he, nor his patron Becket, nor Pope Alexander himſelf, was aſhamed of any lies, which it was thought would be ſerviceable to the intereſt of the church, and do honour to it's champions in the opinion of the people.

P. 348,

P. 347. *It would be tedious to enumerate each particular inſtance, wherein, by a real or pretended zeal for the church, he (Becket) diſquieted his fellow-ſubjects, or offended his ſovereign*, &c.

Mr. Carte has obſerved, in a note to p. 579. of his Hiſtory of England, vol. i. that a ſtory mentioned by ſome writers, and quoted from a manuſcript Hiſtory of the Life of Becket, preſerved in Greſham College, is too abſurd to need a ſerious refutation, as it is founded upon a ſuppoſition, that the two ſhillings an hyde, levied for *danegeld*, was not for the king's uſe, but was due to the under ſheriffs, that held the county courts. Indeed both in that author, and in another Life of Becket, where I find it alſo mentioned, it appears a moſt idle and groundleſs tale, unſupported by all accounts of the revenue in that age. Yet this alone can, with any degree of propriety, be alledged as an inſtance of Becket's contending for the rights of the people againſt the crown, becauſe, it is ſaid, he maintained, that his tenants ought not, *de jure*, to pay that money, *as belonging to the king*. In all other reſpects his contention with the crown was ſo far from being any way beneficial to the people, that it tended to deprive them, where-ever clergymen were concerned, of the benefit of royal juſtice and royal protection. Nor had the cauſe he maintained the leaſt connexion with their *liberty*, unleſs we ſuppoſe that their *liberty* conſiſted in making the church and all churchmen independent on the ſtate, according to the principles of Gregory the Seventh. This moſt evidently appears from the account I have given of the whole proceſs of his long diſpute with the crown, on the authority of his letters, and thoſe of his friends and the companions of his exile. But, as ſome perſons think any oppoſition to a king a ſtruggle for *liberty*, ſo others wiſh to recommend this prelate *in that light* to the eſteem and favour of thoſe, who would not reſpect him as a martyr for popery in its moſt extravagant claims. A late writer, more ingenious than accurate or impartial, ſpeaks of him as *a guardian of the rights of the ſubject, and ſtanding in the breach againſt an arbitrary power, which would have overturned them.* One ſhould imagine from theſe words, that the Conſtitutions of Clarendon had been ordinances impoſed, not by the whole legiſlature, but by the *arbitrary power* of King Henry the Second. Whereas they not only were enacted by the advice and authority of parliament, but after a ſtrict enquiry into what was *the law and cuſtom of the land* before that time, which theſe ſtatutes did no more than revive and confirm. The preamble to them ſays, " in præſentia " ejuſdem regis facta eſt iſta *recordatio* vel *recognitio* cujuſdam partis *con-*

V. Edward Grim or Ryme, Mſſ. Greſham College.

See the Hiſtory of the Life of Reginald Pole, p. 227, 228.

" *ſuetudinum, et libertatum et dignitatum anteceſſorum ſuorum, videlicet,*
" *regis Henrici avi ſui et aliorum, quæ obſervari et teneri debent in regno.*"
What Becket oppoſed, even after this act of parliament, to which he had conſented, is here declared, by the voice of the whole legiſlature, to be *a recognition of cuſtoms, and liberties, and dignities of the king's anceſtors, namely of King Henry the Firſt and others, which ought to be obſerved and maintained in the realm.* It was therefore the authority of *the law*, and of the *legiſlature* of England, not the lawleſs will or the arbitrary power of the king, againſt which Becket directed that oppoſition for which he has been ſainted. The Great Charter does indeed begin with a confirmation of the rights and liberties of the church. " Imprimis conceſſimus Deo et hac præſenti cartâ noſtrâ confirmavimus
" pro nobis et hæredibus noſtris in perpetuum, *quod Anglicana eccleſia*
" *libera ſit, et habeat omnia jura ſua integra et libertates ſuas illæſas.*"
But it muſt be ſuppoſed, that theſe rights and liberties of the church were defined and limited by the laws and cuſtoms of the realm, and by that right, which is inherent in the ſupreme magiſtrate of every civil ſociety, to adminiſter juſtice impartially to all his people. That under the notion of eccleſiaſtical liberty the clergy meant *dominion*, appears undeniably from numberleſs facts in thoſe times, and is plainly declared by a clergyman contemporary with Becket, who, ſpeaking of the agreement between King Stephen and Henry Plantagenet, which (as it was made by the mediation of the biſhop of Wincheſter) he ſuppoſed would confirm the pretenſions of the church in their whole extent, cries out with a kind of rapture, *Clerus nunc demum* DOMINABITUR! But Henry, in concurrence with the whole legiſlature at the council of Clarendon, oppoſed the accompliſhment of this prediction, and (as far as it could be done without an entire reformation from popery) reſiſted that *dominion*.

V. Diceto Imagines Hiſtoriarum inter D. Scriptores, col. 528. ſub ann. 1153.

P. 229, 230.

On what foundation the abovementioned writer affirms, " *that the*
" *whole nation, at the acceſſion of King Henry the Second, was in the utmoſt*
" *conſternation, leſt he ſhould avail himſelf of the title of Conqueſt, and ſet*
" *aſide the rights of the people, in imitation of the founder of the Norman*
" *line,*" I am at a loſs to diſcover. Not one of the many contemporary writers ſays any thing like it; but all their hiſtories are full of the national joy on that event. His treaty with Stephen was an unſurmountable bar to any title *by conqueſt*, if he had ever thought of ſetting up ſo wild a claim, which it was impoſſible he could do, as he had not even a *victory*, on which to ground it. While he was in arms againſt Stephen he had been chiefly ſupported by the Engliſh themſelves; and after the death of that king the whole nation unanimouſly

ſubmitted

ſubmitted to his government, without a blow being ſtruck againſt his right of ſucceſſion.

P. 348, 349. *Becket had lately protected ſome clergymen, guilty of enormous and capital crimes, from being delivered up to the juſtice of the crown.*

Beſides the inſtance I have given, and other ſimilar caſes, one is mentioned by ſome writers, as having greatly incenſed and exaſperated the king againſt the archbiſhop, but with circumſtances ſo different, that the degree of guilt in the perſon whom that prelate protected againſt the royal juſtice cannot eaſily be diſcovered from theſe accounts. Diceto relates it in theſe words: "Huic controverſiæ præſtitit occaſionem "Philippus de Broc, canonicus de Bedeford, qui *tractus in cauſam* "*propter homicidium* in juſticiarium regis verbum protulit contume- "lioſum." But Fitſtephen ſays nothing of his having been indicted for murder or homicide, but only that he had affronted Simon Fits-peter, before a great audience, and while Simon was employed in the king's ſervice, upon a difference or quarrel which aroſe between them at Dunſtaple, where that magiſtrate was with other itinerant juſtices. "Item erant regis juſticiarii itinerantes aliquando apud Dunſta- "pulum: orta eſt *aliqua altercatio* inter Simonem filium Petri, et "quendam canonicum Bedefordiæ Philippum de Brois. Queſtus eſt "poſtea Simon regi, quod eum Philippus, *in obſequio ipſius et magna* "*audientia*, turpiloquio inhonoraſſet." And one of the writers of the *Hiſtoria Quadripartita* tells the fact in theſe words: "Circa idem tempus "Philippus quidam de Lidrois, canonicus, juſticiarium regis quibuſdam "contumeliis affecit," without any mention of his being at the bar before the king's juſtices, on a charge of ſo heinous a nature. Probably, the account that is given by Diceto is the truth, which the other writers have ſoftened. They alſo differ in their accounts of his puniſhment. Fitſtephen ſays, "Clerus ad regem mitigandum decrevit, *per annum* be- "neficio præbendæ ſuæ, ſimul et regni inhabitatione, Philippum privan- "dum. Ita factum eſt, nec tamen regi ſatisfactum eſt." Diceto ſays, "Præbendæ ſuæ multatus eſt beneficio, pulſus eſt a regno *per biennium*." In the *Hiſtoria Quadripartita*, or *Quadrilogus*, it ſtands thus: "Querelâ "ad archipræſulem delatâ, dictus clericus, *etiam ſupra modum delicti*, ut "vel ſic facilius quieſceret regis indignatio, eſt punitus, *publicæ ſcilicet* "*virgarum diſciplinæ adjudicatus, et per annos aliquot ab omni officio et* "*eccleſiaſtico beneficio, quod in regno habebat, ſuſpenſus*." In the copy of this book prefixed to Becket's Letters, inſtead of *Philippus de Lidrois* it is *Philippus de Brois*.

V. Diceto inter D. Scrip. ſub ann. 1164. p. 537.

P. 356. *It is my maſter's pleaſure that I ſhould forſwear myſelf, and at preſent I ſubmit to it, and do reſolve to incur a perjury, and repent afterwards, as I may.*

The words in the original are, "*Eſt domini mei voluntas ut pejerem; "et ad præſens ſubeo, et incurro perjurium, ut potero pœnitentiam acturus "in poſterum.*" It is not quite clear whom Becket meant by the words *domini mei*, whether the king, or the pope. If he meant the pope (whom in his letters he often calls *his maſter*), the reaſon muſt have been, that the friends he had gone to conſult with had perſuaded him to think, that his diſſembling on this occaſion, even ſo far as to take an oath he was determined to break, would be more agreeable to Alexander, than that he ſhould ſtand the preſent danger of refuſing to take it.

P. 358. *It muſt alſo be obſerved, that Baronius, who, in writing of theſe times, has tranſcribed ſeveral letters out of the Vatican manuſcript of the ſame collection, and particularly that to which this appears to be an anſwer, has omitted to tranſcribe or mention this: and (what is no leſs remarkable) in the printed edition made at Bruſſels from the Vatican manuſcript, this is alſo left out.*

The letter to which this is an anſwer ſtands in the Bruſſels edition Epiſt. 108. but it's proper place is immediately after the letter from the clergy of England to Becket, which is there the 126th of the firſt book.

P. 358, 359. *If any diſpute ſhall ariſe concerning the advowſon and preſentation of churches, between laymen, or between eccleſiaſticks and laymen, or between eccleſiaſticks, let it be tried and determined in the court of our Lord the king.*

Before the eſtabliſhment of the ſpiritual court in England, rights of advowſon were tried in the county courts, where the preſence of the king's officer and other lay aſſiſtants prevented partial and unjuſt deciſions by the eccleſiaſtical judge. But, after the ſeparation of the eccleſiaſtical and civil juriſdictions by William the Conqueror, the clergy endeavoured to draw all cauſes of this nature into the ſpiritual court, which was very prudently reſiſted by the civil power in thoſe days, and the trial thereof reſerved to the king's ſupreme court.

Ibid. *It is unlawful for archbiſhops, biſhops, and* any dignified clergymen of the realm, *to go out of the realm without the king's licenſe; and if they go,*

go, they ſhall, if it ſo pleaſe the king, give ſecurity that they will not, either in going, ſtaying, or returning, procure any evil, or damage, to the king, or the kingdom.

This was enacted to prevent the too frequent and dangerous intercourſe between the pope and Engliſh prelates. I agree with Mr. Selden, that the words in the original conſtitution, *perſonæ regni* ſhould be tranſlated *dignified clergymen*. See Titles of Honour, p. 732, 733. It takes in abbots, priors, the king's chaplains, and all clergymen who held of him in chief, but does not here, I think, extend to all *parſons*, or *beneficed clergymen*, as the word is commonly tranſlated.

Ibid. *Perſons excommunicated ought not to give any ſecurity* by way of depoſit, &c.

The words in the original are, "non debent dare *vadium ad re-* "*manens*," which being ſomewhat obſcure have been differently tranſlated by different authors. I have rendered them according to the beſt information I could gain of their *legal* ſenſe.

Ibid. *No tenant in chief of the king, nor any officer of his houſhold, or of his demeſne, ſhall be excommunicated, nor ſhall the lands of any of them be put under an interdict, unleſs application ſhall firſt have been made to our lord the king, if he be in the kingdom; or, if he be out of the kingdom, to his juſticiary; that he may do right concerning ſuch perſon, and in ſuch manner, as that what ſhall belong to the king's court ſhall be there determined, and what ſhall belong to the eccleſiaſtical court ſhall be ſent thither, that it may there be determined.*

One reaſon, aſſigned for this by the authors of thoſe times, is, that the king ſhould not ignorantly be expoſed to converſe with an excommunicated perſon. But, to prevent *that*, a bare notice given of it to the king would have been ſufficient; whereas the conſtitution itſelf declares the intention to be, *that the king may do right concerning ſuch perſon.* And it not only ſecures the perſons of the king's tenants and officers from excommunication, but alſo their lands from an interdict, without application to him. It appears from a paſſage in one of Becket's own letters, that he himſelf underſtood the ſenſe of it to import, not only that notice ought to be given to the king of the excommunication or interdict; but that his leave muſt be obtained. In truth it was meant as a check upon the power of the ſpiritual court, and (as appears from Eadmer) was coeval with the eſtabliſhment of that court in England. Yet the latter part of it ſhews, that it did not take from thence all power of

V. Diceto, col. 536. M. Paris.

V. Epiſt. S T. l. i. epiſt. 96.

of inflicting the diſcipline of the church on ſcandalous ſinners becauſe they held of the king, or ſerved him, as his officers; but only prevented the exerciſe of that juriſdiction over his tenants and officers, without a reaſonable cauſe, or in caſes not properly cognizable there, but belonging to his courts of civil or criminal juſtice. The only fault of this law ſeems to have been the limitation of it, in making that a privilege of one claſs of the people, which was a right due to all.

P. 360. *Concerning appeals, if any ſhall ariſe, they ought to proceed from the archdeacon to the biſhop, and from the biſhop to the archbiſhop. And, if the archbiſhop ſhall fail in doing juſtice, the cauſe ſhall at laſt be brought to our lord the king, that by his precept the diſpute may be determined in the archbiſhop's court; ſo that it ought not to proceed any further without the conſent of our lord the king.*

In a letter of the biſhop of London to the pope concerning the diſpute between the king and Becket he explains this conſtitution as being no *prohibition* of appeals to Rome, but only a check on their being carried thither *unneceſſarily*, and *without the leave of the king*. His words are theſe: "*In appellationibus ex antiqua regni ſui conſuetudine id ſibi vindicat (rex ſcilicet) honoris et oneris, ut ob civilem cauſam nullus clericorum regni ſui ejuſdem regni fines exeat, niſi, an ipſius authoritate et mandato jus ſuum obtinere queat, experiendo cognoſcat. Quod ſi nec ſic obtinuerit, ad excellentiam veſtram, ipſo in nullo reclamante, cum volet quilibet appellabit.*" V. Epiſt. S.T. l. i. epiſt. 38.

Without queſtion there is not in the words of this conſtitution any direct prohibition of appeals to Rome; it being only declared, that, upon an appeal from the archdeacon, the cauſe ought not to proceed any further than the archbiſhop's court *without the conſent of the king*. But in effect this reſtraint would generally have ſtopt the cauſe in *that court*; and it manifeſtly aſſerted the royal ſupremacy, by ſubjecting the power of appealing to Rome, in eccleſiaſtical cauſes, to the will and pleaſure of the king: whereas the pope claimed the right of receiving ſuch appeals as inherent in his ſee. Henry's deſire of gaining the conſent of the biſhops to this conſtitution was the reaſon of his avoiding an *expreſs prohibition:* but he intended it ſhould have the ſame operation, and the pope ſaw that intent.

P. 361. *Pleas of debt, whether they be due by faith ſolemnly pledged, or without faith ſo pledged, belong to the king's judicature.*

The clergy of England began firſt in the reign of King Stephen to extend their juriſdiction in the ſpiritual courts to the trial of perſons for breach

breach of faith *(pro læſione fidei)* in civil contracts; by which means they drew thither a vaſt number of cauſes which belonged to the civil courts, and of which they had no proper cogniſance. To this encroachment they were inſtigated by the biſhops of Rome, and therefore Alexander condemned the above-recited ſtatute, which was made to prevent it.

Ibid. *When an archbiſhoprick, or biſhoprick, or abbey, or priory, of royal foundation, ſhall be vacant, it ought to be in the hands of our lord the king, and he ſhall receive all the rents and iſſues thereof, as of his demeſne; and when that church is to be ſupplied, our lord the king ought to ſend for the principal clergy of that church, and the election ought to be made in the king's chapel, with the aſſent of our lord the king, and the advice of ſuch of the prelates of the kingdom as he ſhall call for that purpoſe; and the perſon elect ſhall there do homage and fealty to our lord the king, as his liege lord, of life, limb, and worldly honour (ſaving his order), before he be conſecrated.*

Of the foundation of the right aſſerted to the king by this ſtatute enough has been ſaid in the preceding book of this Hiſtory. I will only add here, that the ſame practice prevailed in the kingdom of France, in the dutchy of Normandy, and in the Norman kingdom of Sicily. Notice has alſo been taken of the *ſaving clauſe* at the end of it, which certainly opened a wide door to elude all the obligations contracted by the prelates in the act of homage and oath of fealty; though I find it affirmed by Becket, in a letter to the pope, *that the ſame form was then uſed by the whole Chriſtian church.* He likewiſe adds, that, when his Holineſs abſolved him from the oath he had taken at Clarendon, that pontiff told him, *that not even for the preſervation of his life ſhould a biſhop lay himſelf under any obligation without a ſaving to his order and to the honour of God:* which he adhered to pertinaciouſly in his whole diſpute with the king. As for the form of election, which is laid down in this ſtatute, it muſt be obſerved, that the making it *in the king's chapel*, by the principal clergy of the vacant church, with the advice of only *ſuch of the prelates of the kingdom as he ſhould call for that purpoſe*, ſeems to have been a practice of no very ancient date, not older, I preſume, than the reign of Henry the Firſt, or William Rufus. For Mr. Tyrrel has proved by many authorities, that, during the times of the Saxons, the Engliſh prelates had been uſually elected in the witenagemote, or great council, and with the advice, or concurrence, of the whole aſſembly. It likewiſe appears from the Saxon Chronicle, that the ſame form was continued under William the

See p. 293. book ii.

See p. 200. book ii.

V. Epiſ. S. T. C. l. iv. epiſt. 6.

See Tyrrel's General Introduction to his Hiſtory of England, from p. 113 to p. 115. Chron. Sax. edit. Oxon. p. 174, 175.

the Firſt. The words are theſe: "Hoc anno (1070) Lanfrancus, "Cadomenſis Abbas, compellente rege Wilielmo, et jubente Papâ "Alexandro, Angliam venit; et primatum regni Anglorum in eccleſiâ "Cantuarienſi ſuſcepit, *eligentibus eum ſenioribus ejuſdem eccleſiæ, cum "epiſcopis, et principibus, clero et populo Angliæ, in curia regis.*" But whatever form, or appearance, of more or fewer electors, had been kept up in thoſe times, or was continued in thoſe of which I write, it appears from a paſſage in a letter of Peter of Blois, which is inſerted in the Appendix to the preceding book of this Hiſtory, that *the chief power* in theſe elections was *by the conſtitution of the kingdom* aſſigned *to the king*. Speaking of Henry the Second, he ſays, "Cum autem *juxta regni conſuetu-"dinem* in electionibus faciendis *potiſſimas et potentiſſimas habet partes*, &c. Indeed the ſtatute here recited requires no more, than that the prelate ſhall be elected *with the aſſent of the king*; but in fact that *aſſent* was little different from a real *nomination*. The pope and clergy were deſirous to exclude the king and all the laity from any ſhare in their elections, which was one principal reaſon of Alexander's condemning this ſtatute.

V. Epiſt. Petri Bleſenſis ad Archepiſ. Panormitanum, in Appendice.

P. 365. *Another requeſt had been made to Alexander by Henry, and preſt with great eagerneſs, which was, that a commiſſion appointing him legate over the whole kingdom of England ſhould be granted by his Holineſs to the archbiſhop of York, and ſent to Henry to be delivered by him to that prelate, whenever he ſhould think proper.*

Some eminent writers, upon the authority of Hoveden, have erroneouſly ſuppoſed that a legantine commiſſion was now granted to Henry for his own uſe and benefit. But the pope ſays to Becket, in a letter on this ſubject, that the king had aſked it of him for the archbiſhop of York, not for himſelf. "Cum olim (filius noſter Henricus &c.) à nobis et "fratribus noſtris inſtantius poſtulaſſet *legationem totius Angliæ Eboracenſi "archiepiſcopo indulgeri*," &c. And afterwards, in the ſame letter, "Legationis literas *præfato archiepiſcopo concedendas* eidem regi conceſſi-"mus." And in another, on the ſame occaſion, "Non ob gratiam *con-"ceſſæ legationis* animus tuus deficiat, &c. Quoniam nos antequam ad "hoc deduceremur, et liberum tribueremus conſenſum, prædicti nuncii "nobis ex parte ipſius regis firmiter in verbo veritatis promiſerunt, et "ſuper hoc, ſi vellemus, recipere juramentum obtulerunt, quod nun-"quam ſine voluntate veſtrâ eædem literæ *archiepiſcopo Eboracenſi red-"derentur*." John of Saliſbury likewiſe ſays, in another letter to Becket concerning this buſineſs, "Ut pro certo accepimus, *domini Eboracenſis "legatio*

V. Epiſt. S. T. e Cod. Vatican. l. i. epiſt. 4.

Ibidem, epiſt. 5.

" *legatio* omnino expiravit." The miſtake of Hoveden might ariſe from the letters of legation being ſent to the king, who deſired to deliver them himſelf to the archbiſhop of York.

P. 368. *But his anſwer to this ſummons was an expreſs declaration, that he would not obey it.*

In all this account I follow the authority of the biſhop of London's letter to Becket concerning this tranſaction. I have given it in the Appendix belonging to this book, from the Cottonian manuſcript now repoſited in the Britiſh Muſeum; but it may be proper here to recite that part thereof, which relates to this matter. The words are theſe: " Per- Bib. Cott. Claudius, b. 2. 3. f. 92.
" latum eſt ad vos mandatum regium, ut cuidam regni nobilium, ſuper
" prædio quod à veſtrâ vendicabat eccleſiâ, quod juſtum foret exhiberetis.
" Qui poſt ſtatutos dies ad regem reverſus aſſeruit, ſe penes vos juſticiam
" aſſequi nequiviſſe, et ſe ad id ipſum, juxtà regni ſtatuta, coram vobis,
" ſuo congruoque teſtium juramento comprobaſſe. Quo regem pro-
" ſequente diutius, et ſuper exhibendâ ſibi juſticiâ quotidiè ſupplicante,
" domini noſtri regis ad vos eſt emiſſa citatio, ut ſtatuto die ſe *veſtra*
" *ſublimitas* ſibi exhiberet, ut, quod ipſo mandante non egerat, eo cog-
" noſcente, litemque judicio dirimente compleret. Non eſt à vobis hæc
" admiſſa citatio, *verum vos in hoc ſibi minime pariturum declaravit a*
" *vobis ad ipſum delegata reſponſio.* Arbitratus hoc ipſo dominus rex
" juri ſuo detrahi graviter et poteſtati, eccleſiam regni juſſit ad concilium
" Northamtoniam convocari. Convenit populus, ut vir unus, et aſſiden-
" tibus ſibi quorum id dignitati congruebat et ordini, quod dictum eſt
" ſuper exſpreto mandato ſuo, in querelam adverſus vos, uſus, quâ decuit,
" modeſtiâ et venuſtate, propoſuit. Porro quod intendit, fratrum veſtro-
" rum non expectato vel expetito conſilio, veſtra in continenti confeſſio
" confirmavit, adjiciens, vos ob id non paruiſſe mandato, quod Johannes
" ille, qui regis ad vos mandatum pertulerat, in veſtrâ præſentiâ, non
" evangelio ſed *troparío quodam propoſito*, juraviſſet. Eſt itaque dictum
" in commune *cauſam non eam eſſe ob quam mandatum regium oportuiſſet*
" *omiſiſſe*; *regnique fore conſuetudinem, in offenſis hujuſmodi, mulctâ pecuni-*
" *ariâ ſuam rem taxante miſericordiâ placari regem.* Paruit regiæ
" *ſublimitas veſtra* ſententiæ, ad plenum cavens ſuper judicati ſolutione."
The recapitulation here made of all that paſſed on this occaſion, in a letter to Becket himſelf, from the biſhop of London, who was preſent at the whole proceeding, is of far greater authority than any relations of contemporary hiſtorians; and therefore whatever is ſaid, by any of thoſe writers, inconſiſtent therewith, deſerves, I think, no credit. But the

grounds of the ſentence, and the form of it, as given by Fitſtephen, perfectly agree with the facts, as ſtated in the letter, though not as they are related by that writer himſelf. His account of it is as follows: "Viſum "eſt omnibus, ex reverentiâ regiæ majeſtatis et ex aſtrictione ligii homagii "quod domino regi fecerat archiepiſcopus, et ex fidelitate et obſervantiâ "terreni ejus honoris quam ei juraverat, quod parum eſſet defenſus vel "excuſatus, quia citatus à rege neque venerat, *neque corporis infirmitatem, vel neceſſariam, quæ deferri non poſſet, officii eccleſiaſtici adminiſtrationem, per nuncios allegaverat. Condemnandumque eum dixerunt in pœnam pecuniariam omnium bonorum ſuorum mobilium ad miſerecordiam "regis.*" But in the *Hiſtoria Quadripartita* it is ſaid, that Becket proved he had ſent a ſufficient anſwer. "Trahitur in cauſam archiepiſcopus, quod "ad quandam regis citationem ſe in propriâ perſonâ non exhibuerit. "Qui, *licet ſufficientem reſponſionem pro ſe miſiſſe probaverit*, tamen om"nium, tum procerum, tum etiam pontificum judicio, mox omnia bona "ejus mobilia ſunt confiſcata, niſi forte regia clementia vellet tem"perare judicium. Quod, ſicut vulgo dicitur, *De omni mobili ſuo in "regis miſerecordia judicatus eſt.*" Gervaſe likewiſe affirms, that it was not from *contempt*, but from his being unwillingly detained *by a violent fit of ſickneſs*, that he did not obey the king's citation, and adds, that he made this excuſe by meſſage in due form. "Quod "autem ſuper hoc citatus ad regis non venit præſentiam *non con"temptus fuit, ſed infirmitate valida invitus retentus eſt, atque ſuper "hoc per duos legales viros, quos ipſe miſerat, excuſatus eſt.*" Which is directly contrary to the letter above-recited, and to the grounds of the judgement as we find them delivered by Fitſtephen in the paſſage before quoted. I will add, that the pope's decree annulling that judgement (which the reader may ſee in the Appendix in this book) alledges no ſuch meſſage, nor any ſickneſs of Becket, but objects to it from reaſons derived only from the policy and claims of Rome; whence, I think, we may draw a very ſtrong preſumption, that the account given by Gervaſe had no foundation of truth. It is alſo remarkable, that, in the *Hiſtoria Quadripartita*, Becket is ſaid to have complained, not that his plea of having been unwillingly detained by ſickneſs had not been accepted, but *that this was a new form of judgement according to the new canons promulgated at Clarendon. For it had never been heard of before, that an archbiſhop of Canterbury was tried in the court of any king of England for any cauſe whatſoever, as well in reſpect of the dignity of the church, and the authority of his perſon, as becauſe he was the ſpiritual father of the king*

king and of all in the kingdom, on which account they were all bound to defer to him in all points. " *Cum vero audiſſet ſe judicatum ſic, quale, inquit,* " *ſit judicium hoc? Me etiam tacente ſecula poſt-futura non tacebunt.* " *Nova quippe judiciorum forma hæc eſt, forte per novos canones proxime* " *apud Clarendon promulgatos. Siquidem a ſeculo non eſt auditum quenquam* " *Cantuariæ archiepiſcopum in curiâ regum Anglorum pro qualicunque cauſa* " *judicatum, tum propter dignitatem eccleſiæ, tum propter auctoritatem per-* " *ſonæ, tum quod ipſe regis et omnium qui in regno ſunt ſpiritualis pater eſt,* " *et ob id ſemper ei deferendum ab omnibus.*" The ſame writer adds, that he complained much more of his brethren the biſhops, than of the judgement itſelf, or of the temporal barons who judged him, " *multo* " *magis quam de judicio, vel proceribus judicantibus, de confratribus ſuis et* " *coepiſcopis querebatur,*" becauſe it was contrary to the order and cauſe of juſtice, *that an archbiſhop ſhould be judged by his ſuffragans, or a father by his ſons*; " *ut archipræſul à ſuis ſuffraganeis, aut pater a filiis judicetur.*" I have followed Hoveden in ſaying that it was underſtood that a fine of five hundred pounds would be accepted by the king, at whoſe mercy this ſentence left all the archbiſhop's goods and chattels. The words of that hiſtorian are theſe: " Et barones curiæ regis judicaverunt eum eſſe *in miſeri-* " *cordia regis*, et, quamvis archiepiſcopus niteretur judicium illud falſificare, " tamen prece et conſilio baronum poſuit ſe in miſericordiâ regis *de* " *quingentis libris*, et invenit ei fidejuſſores." From hence it ſeems, that a fine of five hundred pounds in the money of thoſe days was the uſual compoſition for thoſe whoſe goods and chattels were thus declared to be at the king's mercy, *in miſericordia regis.* But neither Hoveden, nor any contemporary writer, except Fitſtephen, makes any mention of Becket's having complained to the biſhops, that they had laid an exceſſive fine upon him, becauſe, as an inhabitant of the county of Kent, he ought, by the cuſtom of that county, to have paid but *forty ſhillings* for a default of this nature.

Some of our modern hiſtorians, in their accounts of this proceeding, have tranſlated the word *Troparium*, or *Tropar*, *Song book:* but Mr. Carte more truly renders it *a book of Hymns ſung in church before the introit of the communion ſervice*; and ſays in a note, " It was uſual to " put ſome paſſage of the Goſpels at the head of ſuch books uſed in " divine ſervice; and I have ſeen in old manuſcripts the beginning of " the Goſpel of St. John ſo placed on purpoſe for people to ſwear on." It is reaſonable to ſuppoſe it was ſo in this inſtance; and then nothing could be more frivolous than Becket's objection; but an oath upon a *Song book* could not have been admitted in any court.

See Tyrrel and others.

P. 588.

It may be worth obſerving here, that, by the paſſage above-recited from the biſhop of London's letter, it ſeems that the appellation of *veſtra ſublimitas*, *your ſublimity*, was given in thoſe days to archbiſhops of Canterbury: yet I do not find it in the letters of Becket's other correſpondents.

Ibid. *We are told by one author, that this ſentence was pronounced by the biſhop of Wincheſter, at the command of the king: but I think the fact very doubtful.*

The ſilence of all the contemporary writers, except Fitſtephen, is alone a ſufficient reaſon to doubt of the truth of this particular; but, if we conſider the improbability of it, that doubt will be ſtrengthened. For, in all accounts of the proceedings of the third day, we find, that the ſentence of the court againſt Becket was to have been pronounced by the earl of Leiceſter, to whom, as grand juſticiary, it properly belonged. And no reaſon appears, why in the trial of one of the ſpiritual lords, upon a charge of this kind, the temporal barons ſhould ſay (as Fitſtephen makes them do) *vos, epiſcopi, pronuntiare debetis ſententiam, ad nos non pertinet.* This cauſe was certainly not *eccleſiaſtical*; nor is it probable that the king would allow it to be ſo, and confirm that notion by committing the declaration of the judgement to one of the prelates. But, if the temporal lords and the king himſelf had ſo unaccountably erred in the nature of this proceeding, the pronouncing of the ſentence would more naturally have belonged to the archbiſhop of York, than to the biſhop of Wincheſter, one of Becket's ſuffragans.

P. 369. *The next day the king demanded of the archbiſhop five hundred pounds, which he ſaid he had lent him, when that prelate was his chancellour. Becket affirmed, that it was given, not lent: but, as he could not prove the grant, the court condemned him to pay the money back, and he ſubmitted to the ſentence; five of his vaſſals offering themſelves to be his ſureties, as they ſaw the biſhops unwilling to pledge themſelves for him any further.*

This account is taken very exactly from Herbert de Boſeham, one of the writers from whoſe hiſtory of theſe tranſactions the *Quadrilogus*, or *Hiſtoria Quadripartita*, and the Life prefixed to Becket's Letters in the Bruſſels edition, are compiled. There are ſome ſmall differences in the paſſage as it is printed in thoſe books, but not worth obſerving here. I will only take notice, that the authority of Herbert de Boſeham, in this particular, is ſupported by Gervaſe of Canterbury; and that the former

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was preſent at this whole proceeding. Yet Fitſtephen, who was alſo preſent, takes no notice of this demand of five hundred pounds, but mentions one of three hundred, which Henry made upon Becket, from his receipts of the lands belonging to two caſtles which had been in his cuſtody; and another of five hundred marks, which that prince ſaid, he had lent him in the Toulouſe expedition; and a third of the ſame ſum, for which he had been his ſurety to a certain Jew of that country. To the firſt of theſe, he ſays, the archbiſhop (after arguing, that he was not bound to make any anſwer thereupon, not having been cited concerning it) did nevertheleſs plead, that he had ſpent this money, and much more, in the repairing of thoſe caſtles and of the royal palace at London, *as might evidently appear from the repairs themſelves.* But, the king not confirming the truth of this aſſertion, and, on the contrary, demanding, that the cauſe ſhould be tried, Becket voluntarily acquieſced in the payment of the money, for the ſake of avoiding any offence to that prince on a pecuniary matter, and found three lay ſureties, one of whom was the earl of Gloceſter, *among his own vaſſals.* P. 37, 38.

What credit is due to this, or to what is ſaid of the two other demands abovementioned, the reader will judge: but it is unſupported by the teſtimony of any other hiſtorian who lived in thoſe times; and one can hardly conceive, that they ſhould all have paſt it over in ſilence, had they known it to be true. Nor could it poſſibly have eſcaped the particular knowledge of Herbert de Boſeham, who was preſent in the court. He and all of them were deſirous to exaggerate the ſeverity of the proceedings againſt Becket, rather than to ſuppreſs any part of them which might be thought a hardſhip. On the other hand, no mention is made by this author of the demand of five hundred pounds, which Herbert de Boſeham and Gervaſe ſay, the king declared he had lent to that prelate; unleſs we ſuppoſe that the loan of five hundred *marks* in the Toulouſe expedition, or that other of the ſame ſum, for which the king was his ſurety (as we are told by Fitſtephen) is to be underſtood to mean the ſame demand, notwithſtanding the difference between *marks* and *pounds*, and though nothing is ſaid there of his having agreed to pay the money, and found *five* ſureties. Upon the whole, I think the authority of this hiſtorian too ſlight to be followed in any material variation from the others contemporary with him, eſpecially in his accounts of theſe publick tranſactions.

P. 375. *The king in the mean while had demanded juſtice againſt him from the temporal peers, and had called in certain ſheriffs, and ſome barons of inferior dignity, to aſſiſt in the judgement.*

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The words of Fitſtephen, from whom I take this account, are theſe: "Evocantur quidam vicecomites et ſecundæ dignitatis barones antiqui "dierum, ut addantur eis, et aſſint judicio." The queſtion is, who were theſe *ſecundæ dignitatis barones*. Bracton ſays, "*Comites, vel barones, non "ſunt amerciandi niſi per pares ſuos, et ſecundum modum delicti, et hoc "per barones de ſcaccario, vel coram ipſo rege.*" It ſeems by this paſſage that the *barones de ſcaccario* were then eſteemed *pares baronum*. Mr. Selden ſays, "perhaps the barons of the Exchequer were therefore in "former ages called ſo, becauſe they were anciently made of ſuch as "were barons of the kingdom, or parliamentary barons. If other-"wiſe, why were they ſtyled *pares* or *peers* to parliamentary barons in "Bracton?" Whether in the time of Henry the Second the barons of the Exchequer were all barons of the kingdom I do not find. If they were not, ſome of theſe might be the *barones ſecundæ dignitatis* here-mentioned. The ſheriffs, ſaid by the ſame author to have been likewiſe called in, to aſſiſt in this judgement, were not *barons of the kingdom* (though it appears that many ſheriffs were ſo at that time); for if they had, they muſt of courſe have concurred in the judgement, *as peers*, and could not have been mentioned with the *barones ſeeundæ dignitatis* called to it by the king. That *barones ſecundæ dignitatis*, in the general ſenſe of the words, meant great lords of manors, *not holding of the king*, and therefore inferior to *his barons*, but who had *court barons* under them, and in many records are called *barones*, I have hardly any doubt. But the difficulty lies, in their being joined to the *barones regis*, the *greater barons*, in the judgement of a biſhop upon an accuſation in parliament. That in calling them in the king did nothing irregular againſt the privilege of the peerage, or the law and uſage of thoſe times, may be reaſonably inferred from no complaint being made of it in any of the letters of Becket, or thoſe of his friends, concerning this affair, or in any hiſtory of his life, or chronicle of this reign. He and all his apologiſts would undoubtedly have taken advantage of any irregularity, to have impeached the proceeding, as illegal and void. Whether the barons of the Cinque Ports were then eſteemed as *peers* to the king's barons, ſo far as to be capable of concurring in a judgement where thoſe were concerned, I cannot ſay. It muſt be noted, that in the paſſage here conſidered it is not ſaid, that *all* the ſheriffs, or *all* the *barones ſecundæ dignitatis*, were called in, to this judgement, but only ſome of each claſs, and they, *antiqui dierum*, aged men; as we find that in framing the conſtitutions of Clarendon the *antiquiores regni* were conſulted, on the meaning of which term a good deal has been ſaid in one of the notes

V. Stephanid. in vitâ S. T. Cantuar.

L. iii. de Coronâ, c. 1.

Titles of Honour, 2d part, ſect. xvi. p. 717.

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to the foregoing book of this Hiſtory. The word *evocantur* expreſſes that they were called out of *the general aſſembly*, from which the king's barons were ſeparated before. Poſſibly they were not called to *concur* in the judgement, but only as *aſſiſtants*, *ut aſſint judicio*, in order to give it a greater ſolemnity, or for their advice as to the method and order of proceeding.

Mr. Selden ſays, in his Treatiſe on Judicature in parliament, "Here C. i.
"ariſeth a queſtion, whether the ſpiritual lords *de jure* are triable by
"their peers, or no. Out of parliament they are not to be tried by the
"peers; but the doubt is, whether in time of parliament they are to be
"ſo tried or not. To me it ſeems they may, *if the matter be moved*
"*againſt them in parliament*." And afterwards, "There be divers pre-
"cedents alſo of the trial of *biſhops* by their peers in parliament, *as well*
"*for capital offences, as miſdemeanours, whereof they have been accuſed in*
"*parliament*." And he gives two precedents of archbiſhops of Canterbury ſo tried for miſdemeanours and for treaſon, to which may be added this of Becket.

P. 377. *Nor could he refrain from revenging himſelf upon two of the moſt clamorous, by very foul language*; &c.

I relate this on the authority of William of Canterbury, as cited in the *Quadrilogus*, or *Hiſtoria Quadripartita*; and, with ſome unimportant variations, in the Life of Becket prefixed to the Bruſſels edition of his Letters. This author muſt not be confounded (as he has been by ſome writers) with William Fitſtephen, from whom he differs materially in this and other particulars. For the latter, though he mentions the reproaches caſt on Becket, takes no notice of the anſwers returned by that V. Stephanidi. p. 46.
prelate, but ſays only, "*O quantum ſuſtinuit in illa die in ſpiritu mar-*
"*tyrium!*" becauſe, I preſume, he was ſenſible that ſuch opprobrious railings, and foul language, were by no means agreeable to the patience of a martyr, or the temper of a ſaint.

Ibid. *Preſently afterwards he received a meſſage from that prelate, by the biſhops of Hereford, Worceſter, and Rocheſter, requeſting his licence to go out of the kingdom.*

The words of Herbert de Boſeham, in the *Hiſtoria Quadripartita*, are: "Hymno vero dicto, archipræſul ſurgens à menſâ confeſtim Rogerum
"Vigornenſem, et Robertum Herefordenſem epiſcopos, et Roffenſem
"epiſcopum, proprium capellanum ſuum, ad regem miſit, poſtulans ab
"eo ſecurum *de terra ſua* egreſſum." Gervaſe of Canterbury alſo ſays,

"Vocatis

" Vocatis autem tribus epiſcopis, quos arctius diligebat, ipſis mediantibus " petivit a rege *liberum de terra egreſſum.*" The obvious ſenſe of the words *liberum de terra, vel ſecurum de terra ſua egreſſum,* is licence to go out of the kingdom; or, as Mr. Tyrrel expreſſes it, to go beyond ſea. But, from the words of Fitſtephen, in his Life of Becket, it ſhould ſeem, that he only deſired the king's leave to go from Northampton under a
P. 47. a ſafe conduct. " Poſtea tres epiſcopos, Walterum Roffenſem &c. " miſit regi archiepiſcopus, *quærere ab eo licentiam et conductum præſtari* " *ſibi in craſtino receſſuro.*" This may be thought the moſt probable; but Herbert de Boſeham's authority in this inſtance is ſuperior to that of Fitſtephen, as it appears that he was with Becket when this meſſage was ſent, and the only one of his attendants entruſted by that prelate with the ſecret of his flight. For he ſays, juſt before the account he gives of the meſſage, " *reſpexit* (archiepiſcopus ſcilicet) *ad diſcipulum qui ſcripſit hæc.*" And afterwards, " Igitur archiepiſcopus, clam de nocte fugiens, fratrem " unum de ordine de Simplingeham ſecum habens, *me ducem,* verſus " Aquilonem ad nobilem illam civitatem Lincolniam tendebat."

P. 397. *Archbiſhops, biſhops, and all dignified clergymen who hold of the king in chief, have their poſſeſſions from the king as a barony, and anſwer thereupon to the king's juſtices and officers, and follow and perform all royal cuſtoms and rights, and, like other barons, ought to be preſent at the trials of the king's court with the barons, till the judgement proceeds to loſs of members or death.*

The evident intention of this conſtitution, or ſtatute, was, to enforce on the prelates the obligations and duties ariſing from their baronies, as ſettled by the legiſlature under William the Firſt, againſt the immunities they now claimed, and particularly the ſervice of attending the judicature of the *curia regis* in all trials there. The exception to *caſes of blood* ſeems to have been grounded on that part of the canon law, which had been received in this kingdom. For in the council of London held under Lanfranc, archbiſhop of Canterbury, in the ninth year of William the Firſt, ſome canons made in Spain were admitted and confirmed, by which no biſhop, or abbot, or eccleſiaſtical perſon, was allowed to judge in caſes extending to life or limb, or to aſſiſt in ſuch judgements. " Ex " conciliis Eliberetano et Toletano undecimo, ut nullus epiſcopus, vel " abbas, ſeu quilibet ex clero, hominem occidendum vel membris trun- " candum judicet, vel judicantibus ſuæ auctoritatis favorem commodet." Concerning this point there is a remarkable paſſage in the works of Peter de Blois. He ſays, in his treatiſe De Inſtitutione Epiſopi, " Illud

V Concilia Magnæ Brit. edit. Wilkins, P. 363.

" cæleſtem exaſperat iram, et pleriſque diſcrimen æternæ damnationis ac-
" cumulat, quod quidam principes, ſacerdotes, et ſeniores populi, *licet*
" *non dicent judicia ſanguinis, eadem tamen tractent diſputando, et diſ-*
" *ceptando de illis*, ſeque ideo immunes a culpâ reputant, *quod mortis aut*
" *truncationis membrorum judicium decernentes, a pronuntiatione duntaxat*
" *aut executione pœnalis ſententiæ ſe abſentant.*" This proves undeniably, that in Henry the Second's time, the prelates only withdrew from *the pronouncing of the ſentence* in caſes of blood, but not from the trial, or from any debates thereupon.

P. 398. *The ſons of villeins ought not to be ordained without the conſent of their lords, in whoſe lands they are known to have been born.*

The reaſon of this was, that the ordaining of a ſlave had the effect of an enfranchiſement, and therefore, the ſons of villeins being born in ſlavery, it was robbing their lord, to ſet them free in this manner, without his conſent.

P. 401. *For, about the beginning of the year* 1165, *he baniſhed out of England, by a general ſentence, all the relations, friends, and dependents of Becket*, &c.

Among theſe Fitſtephen particularly mentions ſome who had given him a night's lodging in England when he fled from Northampton, and before he paſt the ſea; " *qui eum vagum in Angliâ a facie regis et pro-*
" *fugum unâ nocte ſuſceperant.*" The others, who were not of his kindred, appear to have been chiefly his chaplains and ſervants, *clerici ejus et ſervientes.* P. 521. Ibidem.

P. 403. *Ranulph de Broc, who had the principal care of this buſineſs, was a man of a cruel nature; and Gervaſe of Canterbury, who deſcribes him as ſuch, ſeems to impute theſe barbarities chiefly to his hatred of the archbiſhop, whoſe enemy he had been for ſome time.*

This is further confirmed by the teſtimony of Fitſtephen, who ſays, in his Life of Becket, " Secundo die natalis, veniunt Londoniam ap- P. 51.
" paritores et officiales regis, inter quos quidam Randulphus de Broc,
" ſcelere ante alios immanior omnes, cui etiam, laico *crudeliſſimo et archi-*
" *epiſcopi inimiciſſimo*, ſanctam illam eccleſiam Cantuarienſem, primariam
" Anglorum ſedem, cuſtodiendam, immo potius deſtruendam, commiſit.
" Iſte cum aliis quibuſdam regii mandati eſt executor: faciunt impe-
" trata, *et pejora impetratis.*

P. 404. *for the innocent ſufferers met with pity and kindneſs in their exile:* &c.

P. 52. Fitſtephen tells us that all the women and infants were taken into nunneries. In citing this author I generally follow a printed copy of his Hiſtory in the Britiſh Muſeum, which, though publiſhed at London in the year 1724, is become very ſcarce: but there are many manuſcripts of it in different libraries, ſome of which I had ſeen before I knew of this edition.

P. 409. *But, to puniſh them as much as lay in his power, he commanded the eyes of the hoſtages they had formerly given him to be now put out*, &c.

Hoveden and Dr. Powel, in his Welſh chronicle, have given different accounts of this fact. The words of Hoveden are: "Juſticiam fecit de "filiis Ris, et de filiis et filiabus nobilium ſuorum, oculos puerorum "eruit ſcilicet, et nares aureſque puellarum abſcidit." The Welſh hiſtorian takes no notice of any girls having been puniſhed among the hoſtages, nor does he confine this cruel execution to thoſe received from the prince and nobles of South-Wales, but ſays, "*the king cauſed the "pledges eyes (whom he had received long before that) to be put out; which "were Rhees and Cadwallon, the ſons of Owen, and Cynwrick and Meredyth, "the ſons of Rhees, and others.*"

P. 412. *And, undoubtedly, if he had died without a ſon, her pretenſions, and thoſe of her huſband in virtue of his marriage, might have occaſioned a civil war in France; which probably would have ended in the ſettlement of the kingdom upon the houſe of Plantagenet:* &c.

It is ſuppoſed by ſome late French writers, that the excluſion of females from the ſucceſſion to the crown of France was founded on the apprehenſion of being governed by a foreigner: but againſt that apprehenſion it would have been ſufficient to forbid any princeſs of the royal blood of France to marry a foreign prince, on pain of being excluded from the right of ſucceſſion; as we find to have been done by a fundamental law of the kingdom of Portugal, from which the houſe of Braganza derives it's right to the crown, in preference to the iſſue of an elder daughter ſo married. And that there was nothing decided, with regard to this queſtion, in the times of Louis le Jeune, ſo as clearly to eſtabliſh the excluſion of a daughter of France, either on account of her ſex, or

by reaſon of her marriage with a foreign prince, appears from the words of that monarch recited in the text. See p. 412.

P. 421. *Theſe have been very improperly confounded by hiſtorians with the Vaudois and Waldenſes, who differed but little from the doctrines of the reformed churches in our days: whereas the* Cathari *were imbued with opinions deſtructive of true Chriſtianity, if we can give any credit to the accounts that are delivered of their tenets by the beſt contemporary authors. But even the beſt, in theſe points, muſt be read with doubt and caution.*

The Waldenſes were poſterior to the Hereticks mentioned by William of Newbury; for Waldo, from whom that ſect was named, did not begin to make any proſelytes to his doctrine till ſome years after the time when thoſe Germans came into England. The Vaudois, that is the inhabitants of the valleys of Piemont, held the ſame tenets with the Waldenſes, but had profeſſed them long before, as has been proved inconteſtably by their beſt hiſtorian, *Leger*. As for the Albigenſes, I do not find that appellation made uſe of to denote any Hereticks till the beginning of the twelfth century; but the council of Tours, in the year 1163, made a canon, which ſays, "A partibus *Toloſæ* damnanda Hæreſis "dudum emerſit, quæ more cancri paulatim ſe ad vicina loca diffundens "per Gaſconiam et alias provincias quam plurimos jam infecit," &c. And William of Newbury, in the account he gives of theſe Hereticks, ſo cruelly puniſhed in England in the year 1166, ſays, that they were believed to be "ex eorum genere quos vulgo *Publicanos* vocant." And adds, that thoſe Publicans had ſpread from *Gaſcony* into Germany and many other countries. Matthew Paris alſo gives us the title of one of the canons of the Lateran council held in the year 1179, under Alexander the Third, in theſe words, "de Hæreticis *Albigenſibus* et diverſis eorum "appellationibus." And the canon itſelf ſays, "quia in *Waſconiâ*, "*Albegeſio*, et partibus *Toloſanis*, et aliis locis, ita hæreticorum (quos alii "*Catharos*, alii *Publicanos*, alii *Paterinos*, alii aliis nominibus vocant) in-"valuit damnanda perverſitas," &c. From hence it is evident, that thoſe called *Publicani* by William of Newbury were afterwards called Albigenſes, becauſe they were found in the Albigeois *(in Albigeſio)*, and the parts about Toulouſe. It likewiſe appears that *Cathari* was another name given to them. The tenets of theſe are ſaid to have been nearly the ſame with thoſe aſcribed to the ancient Manichæans. We are told that the foundation of all their errors was a doctrine derived from thoſe Hereticks, that the bodies of men, with all the reſt of the material

V. Joh. Conradi Fueſilini Diſſertatio de Fanaticis Seculo XII in Anglia repertis, p. 11, 12. 14, 15.

V. Hiſtoire Generale des Egliſes Evangeliques des Valles de Piemont.

V. Joh. Conradi Fueſilini Diſſertatio de Fanaticis Sec. XI. in Italiâ detectis. Et ejuſdem de Fanaticis Sec. XII. in Angliâ detectis.

material and viſible univerſe, were formed by the devil, and that into thoſe bodies he put ſome ſpirits, whom, in his rebellion againſt God, he had led away captive, or ſeduced to his ſide, and to redeem whom from that thraldom the *Son* and *Holy Ghoſt* had been afterwards produced by God from himſelf. This induced the Manichæans and the Cathari to conclude, that the continuing by propagation the devil's work, human fleſh, was a moſt damnable ſin, and therefore they held marriage inconſiſtent with ſalvation. Thoſe among them who were called *perfect*, either lived in celibacy, or, if married, renounced all carnal uſe of their conſorts. But the others, whom they only termed *believers*, were permitted to marry, and, if married, to remain for ſome time in that ſtate, without renouncing the duties of it; yet under a promiſe that before the end of their lives they would renounce them, and become *perfect*; as they could not otherwiſe be ſaved. And, placing all holineſs in a total abſtraction from the world and carnal pleaſure, they paid no regard to any ſacraments, or external means of ſalvation, but conſidered whatever was viſible and corporeal as unholy and belonging to it's author and ruler the devil. With this account of the tenets of the *Cathari*, or *Puritans*, called alſo *Publicans* in thoſe days, what we are told by William of Newbury of the anſwers made by the Germans, who came over into England in Henry the Second's time, upon their examination at Oxford concerning the euchariſt, baptiſm, and marriage, ſufficiently agrees; but it ſeems that Gerard, their teacher, did not explain their opinions concerning the Deity, or the formation of the viſible univerſe by the devil; on which points he might probably be more reſerved in his anſwers, as they were the ſecrets and myſteries of the ſect. Nor would the Engliſh biſhops, to whom their inward doctrines were unknown, preſs them ſo cloſely on theſe articles, as thoſe who examined them in France, or in Germany, where, the ſect being numerous, their ſecrets were more divulged. It muſt be obſerved, that at the time when the great perſecution was raiſed againſt the Albigenſes in the earldom of Toulouſe and in Gaſcony, though ſome Cathari were among them, yet a great number of others, who had alſo ſeparated from the communion of the Roman catholick church, Petro-Bruiſiens, Henricians, Waldenſes, and Vaudois, had gathered together in thoſe parts, and were therefore called Albigenſes. Nothing could be more different from the doctrine of the Cathari than that of all theſe ſects, which was much the ſame with the creed of the Proteſtant churches in theſe days. But, to make them more odious, the worſt notions of the Cathari were imputed to them all, and many calumnies added, which were really true of none. Not only their opinions were miſrepreſented, but their actions were

were traduced. Yet I will not affirm, that the manners of the Cathari were always pure. St. Bernard, reproaching them with their condemnation of marriage, ſays juſtly. "*Tolle de eccleſia honorabile connubium et* "*thorum immaculatum, nonne reples eam concubinariis, inceſtuoſis, ſemini-* "*fluis, mollibus, maſculorum concubitoribus, et omni denique genere im-* "*mundorum?*" That ſuch diſorders might ariſe among ſome of the Cathari, from their denying to themſelves the proper indulgence of their natural deſires in lawful marriage, I make no doubt. So falſe a notion of purity muſt neceſſarily lead to all kinds of impurity. But Bernard ought to have ſeen, that his argument was as good againſt the celibacy of the clergy, which Rome eſtabliſhed in his days, as againſt the practice of theſe Hereticks condemned by him and by Rome. I will only add, that the Cathari, from the beſt accounts delivered to us of the opinions they held, appear to have differed among themſelves not a little in the fundamental article of their faith. For ſome held two principles, eternal and oppoſite; others only one, againſt whom the devil rebelled. The former ſuppoſed that the evil principle, whom they called the prince of darkneſs, in the war he waged againſt God, whom they called the prince of light, and believed to inhabit in light, as an emanation from his eſſence, took and carried away with him ſome part of that light, out of which, joined to darkneſs, he made the viſible world. The latter thought, that God produced all ſpirits, and all matter, from his own ſubſtance; but that the devil, having rebelled, and being thrown out of heaven, had formed the viſible world from pre-exiſting matter, to be governed by himſelf; and had particularly made the bodies of men to be inhabited by the ſpirits who were partakers of his guilt and had ſhared in his fall. It would be unneceſſary and tedious here to enter into all the niceties of the differences among them on this and other points. The deſire of accounting for the hardeſt queſtion in theology, *the origin of evil*, was the ſource of all their abſurdities; and, in their notions of the means of recovering from the evil which appears in the world, they run into myſticiſm and fanatick enthuſiaſm. I will only add, that we are told many perſons of quality had come into this ſect in the age of which I write.

V. Diſſertation de Fanaticis Sec. XII in Angliâ detectis.

P. 443. *But before he had received any intelligence of it, or of what had been done to his prejudice by Alexander himſelf, he had found means, notwithſtanding all the vigilance of the government in guarding the ports, to get the pope's mandate, which notified his legantine power to the biſhops of his province, and a copy of the bull of legation itſelf, delivered, by a perſon*

ſon unknown, to the biſhop of London, while he was officiating at the high altar, on the feaſt of St. Paul's converſion, in the year eleven hundred and ſixty ſeven.

There is an unaccountable difference in the date of this mandate with that of the pope's letter to Becket, which contains his commiſſion. The laſt is dated in October, the former in May. It is certain they both came to him ſome time before the end of January, in the year 1167; as appears by theſe words, in the 130th Epiſtle of the firſt book of Becket's Letters, " Londonienſis jam recepit literas (legationis ſcilicet) " vobis omnibus oſtendendas." Now it is ſaid in another letter, that the biſhop of London received them from Becket the 25th of January, upon the feaſt of St. Paul. And by many paſſages in the foregoing letters it appears, that it could not be written later than the beginning of February, in the year 1167.

See Epiſt. 129. 135. 163, 164, 165. l. i.

P. 456. *having built there a ſtone bridge, which was accounted one of the nobleſt works of that age.*

C. xxxiii. According to a late writer on the Antiquities of the City of Rouen, this bridge was ſeventy five French ells in length, and ſupported by thirteen arches, of which the five middle ones were of a prodigious heigth, and drew the admiration of all who ſaw them. But they were too high and too narrow. In the year 1502 three arches fell, and in 1533 two more, after which, others beginning to give away, the bridge became impaſſable; and it being found too expenſive to repair it again with ſtone, a bridge of boats was erected in 1626, which has ſince been rendered more perfect, and by riſing and falling with the tide, opening eaſily in the middle to let veſſels paſs through, and being taken to pieces without difficulty when any repairs are wanting, is very convenient, though not ſo magnificent as that built by Matilda, all the ruins of which are now entirely demoliſhed.

P. 457. *When he had acquitted himſelf of that duty, and ſeen her body interred, as ſhe had deſired it might be, in the Abbey of Bec*, &c.

P. 143. Matthew Paris has delivered to us the following epitaph on this great lady:

Ortu magna, viro major, ſed maxima partu
Hìc jacet Henrici Filia, ſponſa, parens.

But he names not the writer. Another, ſaid to have been written by Arnulph biſhop of Liſieux, is given by Du Moulin, in his Hiſtory of Normandy.

Regia

Regia Progenies, ſtirps regia, Cæſaris Uxor
Hìc eſt magnâ brevi clauſa Matilda loco.
Virtutum titulis humani culmen Honoris
Exceſſit mulier nil muliebris habens,
Septembris decima : regno poſt regna recepto,
Creditur æternum continuaſſe diem.

One can hardly think that the two laſt of theſe verſes were by the ſame hand as the former, which, as well as the diſtich tranſmitted to us by Matthew Paris, are ſome of the beſt of that age.

P. 460. *William of Malmſbury tells us, that King Henry the Firſt, when Robert the Second, Earl of Flanders, arrogantly demanded of him a penſion, or annual ſubſidy, of three hundred marks, which the Earl's father had received from William Rufus, returned this anſwer,* " *that the* " *kings of England were not accuſtomed to pay* tribute *to the Flem-* " *ings* ;" &c.

Rymer, in the Preface to his *Fœdera*, blames William of Malmſbury for calling that *tribute*, which was only a payment in conſequence of ſubſidiary treaties. But there was no impropriety in Henry's making the anſwer reported by that hiſtorian, if a renewal of thoſe treaties was imperiouſly demanded, *quaſi pro imperio*, as Malmſbury expreſſes it. He might be willing to pay it as a ſubſidy, when occaſion ſhould require a ſtipulation of that nature, though he would not ſuffer it to be aſked or exacted as a *tribute*. Nevertheleſs the Flemiſh annals, and other modern hiſtories, are juſtly cenſured by Rymer, for ſpeaking of theſe ſubſidies as a real tribute paid by ſeveral ſucceſſive kings of England to the earls of Flanders; which is ſufficiently diſproved by the treaties he has publiſhed from our records.

P. 464. *Yet it was believed that he, with Moſes, had the angel of the Lord, that is, the holy ſpirit, going before him in the law, who would always protect him, and not ſuffer him to have another God, or to prefer either rewards, or perſon, or* cauſe, *to the divine word.*

The word *cauſe* is remarkable. Becket was ſo ſenſible that his *cauſe* with the king would not bear an examination, that he endeavoured to poſſeſs the legate with an opinion, that no regard was to be paid to the merits of *that*, but only to the privilege he laid claim to, of not being queſtioned on this matter, by virtue of the immunities given to the clergy (as he ſuppoſed, by *the divine word*), that is, by the ſcriptures as interpreted by the pope and the canoniſts. The Latin original is as follows:

" Nomínis

V. Epiſt. S.T. e Cod. Vatic. l. ii. epiſt. 18.

" Nominis tamen veſtri (virtutum rectius dixerim), clareſcit opinio, ut " angelum Domini cum Moiſe, id eſt, Spiritum ſanctum in lege prævium " habeatis, qui cuſtodiat vos ſemper, et Deum recentem habere non pa- " tiatur, ut verbo Dei aut munus, aut perſonam præferatis, *aut cauſam.*"

Ibidem, epiſt. 22.

In like manner he tells the pope in another letter, that, from the tenour of the letters, which he and the king of France had received from his Holineſs, he had rather expected the conſolation of peace, *than the confuſion which would ariſe from the deciſion of queſtions between him and the king of England.* " A quo magis ſperabamus, juxtà tenorem mandati " veſtri ad dominum regem Francorum et ad nos emiſſi, ſolatium de " conſolatione pacis, quam *confuſionem de quæſtionum deciſione inter regem* " *Anglorum et nos.*"

P. 478. *No regard was paid in Germany to the ſentence of excommunication and depoſition pronounced againſt him by Alexander, the ſummer before.*

V. Eſſai ſur l'Hiſtoire Generale, t. i. p 293. Fred. Barb.

Monſieur Voltaire, in his Eſſay on General Hiſtory, praiſes Alexander the Third for his moderation and prudence, becauſe, though he had often *excommunicated* the emperour, he never went ſo far as *to depoſe* him. His words are theſe: " Il eſt très remarquable, que, dans ces longues " diſſenſions, le Pape Alexandre III, qui avoit fait ſouvent cette cere- " monie d'excommunier l'empereur, n'alla jamais juſqu' à le depoſer. " Cette conduite ne prouve t'elle pas non ſeulement beaucoup de ſageſſe " dans ce Pontiffe, mais une condemnation generale des excés de " Gregoire VII?" But that all this is erroneous appears from two letters written at that time by one well appriſed of Alexander's proceedings. John of Saliſbury wrote thus to the biſhop of Poitiers: " Fredericus ille " ſchiſmaticus inſignis, dum in eccleſiam malicioſius et crudelius ſævit, " *factus eſt* EX-AUGUSTUS," &c. And in another letter, to one of his friends in England, he ſays, " Vicarius Petri à Domino conſtitutus ſuper gentes " et ſuper regna, *Italos et omnes qui ei* (Frederico ſcilicet) *ex causâ imperii* " *et regni, religione jusjurandi tenebantur adſtricti, à fidelitate ejus abſolvit,* " *et Italiam jam totam à facie furentis et præſentis tantâ felicitate et* " *celeritate excuſſit, ut in eâ nihil habere videatur, niſi tortores, quos* " *evitat interdum, et anguſtiarum, quas evitare non poteſt, juge ſuppli-* " *cium. Abſtulit ei etiam regiam dignitatem,* ipſumque anathemate con- " demnavit, *et inhibuit authoritate Dei, ne vires ullas amodo in bellicis* " *congreſſionibus habeat, aut de Chriſtiano aliquo victoriam conſequatur, aut* " *alicubi quiete et pace gaudeat, donec fructus pœnitentiæ condignos opere-* " *tur. In quo ſecutus eſt exemplum Gregorii ſeptimi, deceſſoris ſui, qui*

V. Epiſt. Tho. Becket, l. ii. epiſt. 65. 89.

" *noſtrâ ætate Henricum imperatorem, eccleſiæ privilegia convellentem, de-*
" *ponens in concilio Romano ſimili ſententiâ condemnavit.*" Theſe proofs are deciſive; and there is a further confirmation of them from Alexander himſelf in a letter he wrote ſome time afterwards to the biſhops of Rouen and Nevers, his legates to Henry. Speaking of that prince, he ſays, " Quod ſi nec ſic reſipuerit, perſonæ ſuæ, ſicut nec Frederico *dicto* " *imperatori* fecimus, nequaquam parcemus," &c. The word *dicto* expreſſes, that he held Frederick to be no longer emperour, but only *ſo called*. Nor was it from any moderation or prudence in him, that the ſentence of depoſition, which he had pronounced, had not ſo full an effect againſt this prince, as Gregory the Seventh's had againſt Henry the Fourth, but merely from his want of power to enforce it as his predeceſſor had done.

V. Epiſt. T. Becket, l. v. epiſt. 4.

P. 479. *He had written in the ſame ſtyle to the college of cardinals* &c.

Several letters relating to this affair are ſtrangely miſplaced in the printed edition of them from the Vatican manuſcript, being there in the fourth book, inſtead of the ſecond, to which they plainly belong.

See epiſt. 3. 13, 14, 15, 16, 17, 18, 19, 20, 21, 22. 51.

P. 487. *While theſe negociations were depending, the earl of Saliſbury was ſurpriſed and treacherouſly murdered, on his return from a pilgrimage, by Guy de Luſignan and others of the ſame family.*

The abbot of Peterborough aſcribes this murder to Geoffry de Luſignan, Guy's brother; but Roger de Hoveden, who has corrected ſome miſtakes in that author, aſcribes it to Guy. From other writers it appears that all the lords of that family were concerned in the murder; but it certainly was committed by the hand of Guy, who fled and went to the Holy Land immediately after the fact. William of Newbury, ſpeaking of the daughter of Amalarick, king of Jeruſalem, ſays, " Nam, tempore fratris regis, voto proprio ſecundas contraxerat " nuptias cum homine peregrino, *Guidone ſcilicet quodam Pictavenſi,* " *qui à facie regis Anglorum Henrici ſecundi de Aquitaniâ fugerat, et* " *regi Jeroſolymorum egregiè militabat.*"

V. Benedic. Abb. p. 443. vol. ii. V. Hoveden, ſub ann. 1168.

P. 497. *The articles were, firſt, that Henry ſhould renew his homage and fealty for Normandy in the accuſtomed form.*

Some authors ſay, that the young Prince Henry, in conſequence of this treaty, did homage to Louis for Bretagne, having done it before for Normandy. But it appears by the 66th epiſtle of the ſecond book of Becket's Letters, and by the 268th of John of Saliſbury's printed at Paris

Chron. Norm. & Gervaſe.

in 1611, that King Henry himſelf, not his ſon, did homage for Normandy; and there could be no reaſon to demand it for Bretagne of the latter, who had no claim to Bretagne, and was not in poſſeſſion of Normandy, under which Bretagne was a fief. This dutchy had no dependence either upon Anjou or Maine.

P. 497, 498. *That he ſhould give up the earldoms of Anjou and Maine, and the fealty of the vaſſals thereof to Prince Henry, his eldeſt ſon; who ſhould pay homage and fealty for them to the king of France, and owe nothing more either to his father or brothers, with reſpect to theſe earldoms, than merely that which their merit or nature might require.*

The reaſon of the latter part of this article I take to be, that, whereas the dukes of Normandy had formerly laid claim to Maine, and thoſe of Aquitaine to ſome diſtricts belonging to Anjou, the young prince was now to hold theſe two earldoms without any dependence on either of thoſe dutchies, and alſo free of any claim, which the dukes of Bretagne may have had to any diſtricts therein.

P. 504. *But he replied, "It was true, many of his predeceſſors were better "and greater than he: but every one of them had, in his own time, cut "off ſome things, which raiſed themſelves up againſt God, though not all. "For if they had then entirely eradicated all, he ſhould not be now expoſed "to this fiery trial, by which being proved, as they had been, and partaking "their labour, he might alſo be found worthy of their praiſe and "reward. Nor, if any one among them had been too cool, or too immoderate in his zeal, was he bound to follow his example, one way or another." He added other arguments to the ſame purpoſe, concluding, "that the primitive fathers had ſuffered martyrdom, becauſe they would "not ſubject the name of Jeſus Chriſt to any other name: nor would he, "that he might recover the favour of a man, give up the honour of "Chriſt."*

This anſwer is ſo much in Becket's ſtyle, that I am inclined to believe it is genuine; becauſe, though none of the letters concerning this meeting report either theſe words, or thoſe of the king to which they were a reply, yet one of them plainly intimates, that more was ſaid on both ſides than is there told. But what the ſame hiſtorians who mention theſe particulars add about Becket's diſgrace with Louis, on account of his behaviour upon this occaſion, and the univerſal outcry againſt him, ſo that even the monks themſelves entirely condemned and reproached him for it, I think cannot be true; becauſe the monks in what they wrote on

V. Epiſt. 8. l. iv.

V. Quadril. Gervaſe.

this

this ſubject to the pope expreſſed no diſapprobation at all of his conduct, but rather approved it, only ſaying, that *many preſſed the archbiſhop to comply with the king*. And it can ſcarce be ſuppoſed that they would have omitted to mention a circumſtance of ſo much importance as the French king's diſpleaſure, or that Becket himſelf would have been ſilent about it in what he wrote to the pope concerning this conference. Whereas, on the contrary, he ſeems in that letter to depend entirely upon the protection of Louis, and triumphs in the aſcendant which this monarch appeared to him to have gained over Henry. Indeed we are told by the abovementioned hiſtorians, that his diſgrace did not continue long; for that, after a few days, Louis repented on a ſudden, threw himſelf at his feet, and begged his pardon. But not to inſiſt on the great improbability of this account, Becket's letter to the pope was certainly written immediately after the conference; and even ſuppoſing that the king had been reconciled to him before he wrote it, he would undoubtedly have given that pontiff information of ſo material an event. V. Ep. 12.

P. 520. *But at the ſame time he tells the pope, that the king now declared, he did not demand of him any account of his adminiſtration as chancellour, nor the money he then had received or ſtood engaged for, but only what he had received that belonged to the crown ſince he was made archbiſhop of Canterbury; for which (he ſays) it was univerſally known that he had accounted.*

This, I ſuppoſe, led Hoveden into the miſtake of ſaying, that Becket had accounted for all the money with which he was charged: an aſſertion contradicted by all the other contemporary hiſtorians, and (what is of more weight) by the letters of that prelate himſelf.

P. 525. *or to the judgement of the Gallican church, or the univerſity of Paris.*

The words in the original are, "paratum eſſe ſtare dicto curiæ Domini "ſui, regis Francorum, vel judicio eccleſiæ Gallicanæ, aut *ſcholarium* "*Pariſienſium.*" It may be doubtful whether the term *Univerſity* was yet applied to the ſchools of Paris; but I have uſed it as conveying the ſame ſenſe to the reader which that word now imports. And this paſſage ſhews, that the reputation of thoſe *ſchools* was very great in thoſe days.

P. 529. *Nay, ſuch was the inhumanity of the Roman civil laws, even under Chriſtian emperours, that in one of Arcadius and Honorius it is called*

a ſpecial act of imperial mercy to grant to the ſons of a traitor their lives; and they are declared thereby incapable of any inheritance, not only from their father, but from any other relation, or of receiving any bequeſt from a ſtranger, or of attaining to any honours and dignities in the ſtate.

The words here referred to are theſe: "*Filii vero ejus, quibus vitam* "*Imperatoriâ ſpecialiter lenitate concedimus (paterno enim deberent perire* "*ſupplicio in quibus paterni, hoc eſt, hæreditarii criminis exempla metu-* "*untur) à maternâ, vel avitâ, omnium etiam proximorum hæreditate, ac* "*ſucceſſione, habeantur alieni, teſtamentis extraneorum nihil capiant, ſint* "*perpetuo egentes et pauperes, infamia eos paterna ſemper comitetur, ad* "*nullos prorſus honores, ad nulla ſacramenta perveniant. Sint poſtremo* "*tales, ut his perpetuâ egeſtate ſordentibus ſit et mors ſolatium et vita ſup-* "*plicium.*" (Codicis l. ix. tit. 8. ad legem Juliam Majeſtatis, l. v.) Yet even in the ſame Code of Juſtinian, from whence I have cited the foregoing paſſage, an imperial conſtitution is to be found of the ſame emperours, containing maxims entirely oppoſite to thoſe of the former, and agreeable to the juſtice and lenity of a good government. "Sancimus "ibi eſſe pœnam ubi et noxia eſt. Propinquos, notos, familiares procul "à calumniâ ſummovemus, quos reos ſceleris ſocietas non facit. Nec "enim adfinitas vel amicitia nefarium crimen admittunt. Peccata igitur "ſuos teneant auctores; nec ulterius progrediatur metus, quam reperia-"tur delictum. Hoc ſingulis quibuſque judicibus intimetur. (Codicis l. ix. tit. 47. 22. De Pœnis.) But there is a doubt whether this abrogated the former law, or extended to caſes of treaſon. Some of the beſt civilians aſſert it did not, but only to other capital crimes. Indeed the laws of treaſon, or *læſæ majeſtatis*, made under the emperours, are by much the worſt part of the civil law.

P. 532. *The biſhop of Norwich, though expreſly forbidden by particular orders from the king, publiſhed a ſentence of excommunication againſt the earl of Cheſter and ſeveral others, conformably to injunctions laid upon him by Becket, even in the preſence of the officers who brought the prohibition.*

I make no doubt that this prelate would have been puniſhed for an act ſo highly contumacious (whatever good reaſons may have determined the king to connive at the diſobedience of the other prelates to his orders relating to the articles he had ſent over), if the biſhop of London had not been alſo involved in the offence of publiſhing the cenſures fulminated by Alexander againſt the earl of Cheſter; as we find he was by an article

article added to thoſe abovementioned, which the reader may ſee in the appendix to this book. It appears from thence that both theſe prelates were declared to be *in miſericordiâ regis*, at the mercy of the king, for having, in obedience to a mandate from the pope, put the lands of the earl of Cheſter under an interdict, and publiſhed the ſentence of excommunication, which the pope had paſt againſt him, without leave of the king's juſtices, againſt the ſtatutes of Clarendon. That the biſhop of London ſhould concur in ſuch an act is ſurpriſing! but his merit to the king in other parts of his conduct atoned for this; and, to avoid an appearance of partiality in a matter of juſtice, the ſame pardon was extended to the biſhop of Norwich.

P. 548. *Upon the report of the commiſſioners, Henry turned out at once almoſt all the ſheriffs in the kingdom, and their bailiffs, or deputies, for oppreſſing his people*, &c.

The words of Benedict, abbot of Peterborough, in his Hiſtory of the Life of King Henry the Second, are theſe: "Eodem anno rex tenuit "*curiam ſuam* in ſolemnitate Paſchali apud Windeſhovres (Windſor) "cui feſto Paſchali interfuerunt Willelmus rex Scotiæ, et David Frater ejus, "*et fere omnes nobiliores et majores Angliæ, tam epiſcopi, quam comites et* "*barones.* Peractâ igitur ſolemnitate Paſchali, perrexit inde Lundonias, "et ibi *magnum celebravit concilium* de coronatione Henrici filii ſui ma- "joris; *et de ſtatutis regni ſui: et ibidem depoſuit fere omnes vicecomites* "*Angliæ, et ballivos eorum, pro eo quod male tractaverant homines regni* "*ſui. Et unuſquiſque vicecomitum et ballivi eorum plegios invenerunt de ſe* "*ipſis, quod ad rectum ſtarent et ad adreſciandum D. regi et hominibus* "*regni quod eis adreſciare deberent de priſis ſuis. Et poſtea fecit rex* "*omnes homines regni ſui, ſcilicet, comites, barones, milites, francostenentes,* "*et etiam villicanos, per ſingulos vicecomitatus jurare, tactis ſacro-ſanctis* "*evangeliis quod verum dicerent*," &c. By this account it ſeems that the inquiſition was made after the parliament held at London, wherein the ſheriffs were turned out for the malverſation and oppreſſion of which they had been guilty; which ſuppoſes that their puniſhment preceded the enquiry into their guilt. But Gervaſe of Canterbury relates the facts in their proper order. "Rex autem, *convocatis optimatibus ſuis*, inſtituit "abbates et clericos, comites et milites, qui circumirent terram, &c. "*et hæc inquirere debuerunt.* In primis exigent barones errantes vadium "et plegium ab omnibus vicecomitibus," &c. And afterwards (when he has given all the articles of the enquiry, which the reader may ſee in the appendix to this book), "*Factâ autem hac inquiſitione mirabili omnes*

P. 3. ſub ann. 1170.

"*juſſi*

" *juſſi ſunt ut eſſent coram rege in civitate Londoniæ* XVIII *kal. Julii*, &c. " *Convenerunt interim die ſtatuto, ex mandato regis, ad Londoniam totius* " *Angliæ epiſcopi, abbates, comites, barones, vicecomites, præpoſiti, alder-* " *manni, cum fidejuſſoribus ſuis, timentes valde omnes.*" This is not a full deſcription of all the members of the parliament, but only of thoſe who were ordered to appear with their ſureties, *cum fidejuſſoribus ſuis*, being all ſuch as had exerciſed ſome kind of *judicature*. But it appears that the enquiry was ordered in one parliament, and the proceedings upon it carried on in another. The abbot of Peterborough, in the paſſage before-recited, ſays, the king held the great council at London, " de " coronatione Henrici filii ſui majoris, *et de ſtatutis regni ſui.*" We have no account of any ſtatutes made in that parliament; but from theſe words one ſhould imagine that ſome were made. Probably the meeting at Eaſter, in which the enquiry was ordered, had not been ſo full and general as this at London. The abbot ſays afterwards, that the proceedings on this matter proved in the iſſue detrimental to the nation, " *quia, poſt factam inquiſitionem, rex repoſuit quoſdam vicecomitum illorum* " *iterum in locis ſuis; et ipſi poſt ea multo crudeliores extiterunt quam antea* " *fuerunt.*" If this was true in any inſtances, it may have ariſen from the diſorder and confuſion of the following civil war, in which ſome of thoſe, who had been turned out from their ſhrievalties, might, in recompenſe for ſervices done to the king againſt the rebels, be reſtored to their offices. But Roger Hoveden, who mentions the turning out of the ſheriffs, takes no notice of this circumſtance; nor is it mentioned by any other contemporary author.

P. 549. *When he had thus re-eſtabliſhed the good order of the ſtate, and made his people the beſt reparation in his power for what they had ſuffered by his abſence, he propoſed to his parliament, which had been ſummoned to meet him on the feaſt of St. Barnabas, the affair of his ſon's coronation.*

In relating theſe tranſactions concerning the coronation Gervaſe of Canterbury confounds the times, as if many things, which were done at conſiderable intervals, had happened on the ſame day. He alſo ſeems to ſuppoſe, that the members of this parliament were quite unappriſed of the intention of Henry to cauſe his ſon to be crowned, till he mentioned it to them in form: but there are many clear indications in the letters to and from Becket, that this deſign was made publick before he came from France. No notice is taken by Gervaſe of the ſheriffs being turned out; but, on the contrary, one would think, from what he ſays on the ſubject, that all offenders convicted on this extenſive inquiſition

had gone off unpuniſhed, in which he is contradicted by Benedictus Abbas, and by Roger de Hoveden.

P. 573. *Henry was now returned into Normandy, where he was ſeiſed with an illneſs ſo violent, that thinking himſelf in danger he made his will*, &c.

It was about the feaſt of St. Laurentius (the 10th of Auguſt) that Henry fell ſick of this illneſs, to which Rapin Thoyras aſcribes his reconciliation with Becket, which was made on the 22d of July in the ſame year. So inaccurate is that author in the account he gives of this reign.

P. 589. *that he was very unfortunate to have maintained ſo many cowardly and ungrateful men in his court, none of whom would revenge him of the injuries he ſuſtained from one turbulent prieſt.*

Theſe are a tranſlation of the words of King Henry, as reported in the Quadrilogus and Gervaſe of Canterbury. But Edward Grime (or Grim), in his manuſcript contemporary hiſtory of this event, preſerved in the library of the Royal Society at London, reports them thus: "*Inertes ac* MSS. fol. 36.
"*miſeros homines enutrivi et erexi in regno meo, qui nec fidem ferunt domino*
"*ſuo, quem à plebeio quodam clerico tam probroſe patiuntur illudi.*"

P. 591. *The words he repeated there, as ſpoken by Henry, even admitting that they were given without any exaggeration, would not authoriſe the conſtruction he now put upon them.*

He there ſays only that Henry had promiſed in general terms *to redreſs* V. Epiſt. 45.
the wrong that had been done to the church of Canterbury, and make ſuch an anſwer to thoſe who had betrayed the archbiſhop and him, as the deſerts of traitors required. But theſe words rather reſerved to Henry himſelf the ſole right and power of doing him juſtice with regard to that affair. Nevertheleſs the earl of Blois, in a letter he wrote to the pope on the ſubject of Becket's death, affirmed to his Holineſs, "*that the king had, in his hear-*
"*ing, upon the day of his reconciliation with Becket, granted him free and*
"*full power to paſs ſentence upon the biſhops who had preſumed to crown the*
"*young king, at his own and the pope's diſcretion.*" This teſtimony is ſtrong: but how can one account for Becket's ſilence upon it, in his letter to the pope, wherein he relates the particulars of what had paſt on that day. He ſays there, that the converſation he had with the king concerning that matter, and of which he gives a very particular detail to his Holineſs, was *apart from all the company.* "Et habitis paucis ſermoni- V. Epiſt. 45.
"bus, *ſolis nobis præſentibus cum domino Senonenſi, nos, illo divertente,* l. v. Append.
"*ſtupentibus univerſis, traxit in partem.*" The earl of Blois therefore could

could not poſſibly have heard this converſation; nor does the archbiſhop take notice to Alexander of any other on this ſubject. I ſhould therefore ſuppoſe, that the earl, who ſtood at a diſtance, ſeeing Becket throw himſelf at the feet of the king, and being afterwards told by Henry, that this action was the effect of that prelate's gratitude for the promiſe he had made, of doing juſtice to him and his church concerning the affair of the young king's coronation, gave this ſenſe to the words, and repeated them upon memory, not very accurately; which might naturally happen at ſuch a diſtance of time, and when his mind was inflamed with anger upon the murder of Becket. For, if Henry had really ſpoken theſe words, his rage againſt Becket for having done what he had given him leave to do would be quite unaccountable, as well as that prelate's continued ſilence upon it through his whole correſpondence.

End of the Notes to the THIRD BOOK *of the Hiſtory of the Life of King* HENRY *the Second.*

APPENDIX
TO THE
SECOND BOOK
OF THE
History of the Life of King Henry the Second.
VOLUME II.

N° I.

Carta Libertatum Angliæ Regis Henrici II.

From the Red Book of the Exchequer.

HENRICUS, Dei gratiâ, Rex Angliæ, Dux Normanniæ et Aquitaniæ, Comes Andegaviæ, baronibus et fidelibus ſuis, Francis et Anglicis, Salutem. This is referred to in p. 15. vol. ii.

Sciatis me, ad honorem Dei et Sanctæ Eccleſiæ, et pro communi emendatione totius regni mei, conceſſiſſe et reddidiſſe, et præſenti cartâ meâ confirmaſſe, Deo et Sanctæ Eccleſiæ, et omnibus comitibus et baronibus, et omnibus hominibus meis, omnes conſuetudines, quas rex Henricus, avus meus, eis dedit et conceſſit. Similiter etiam omnes malas conſuetudines, quas ipſe delevit et remiſit, ego remitto et deleri concedo, pro me, et hæredibus meis.

Quare volo et firmiter præcipio, quod Sancta Eccleſia, et omnes comites et barones, et omnes mei homines, omnes illas conſuetudines, et donationes, et libertates, et liberas conſuetudines, habeant, et teneant libere et quiete, bene et in pace, et integre, de me et hæredibus meis, ſibi et hæredibus ſuis, adeo libere, et quiete, et plenarie, in omnibus, ſicut rex Henricus, avus meus, eis dedit et conceſſit, et cartâ ſuâ confirmavit.

Teſte Ricardo de Luci.

N° II.

Petri Bleſſenſis Epiſt.

Ep. LXVI. *Ad Gualter Archiepiſcopum Panormitanum.*

This is referred to in p. 16. 144, 145, 146, 147, 148, 149, 150. vol. ii.

BENEDICTUS Dominus Deus &c. &c.

Quod autem à me cum omni inſtantia poſtulatis, ut formam et mores domini regis Angliæ vobis ſub certa deſcriptione tranſmittam, meas quidem facultates excedit: ad hoc enim ſatis inſufficiens videretur Mantuani vena ingenii. Ego tamen quod ſcio vobis ſine invidia et detractione communico. De David legitur, ad commendationem decoris ejus, quoniam rufus erat. Vos autem dominum regem ſubrufum hactenus extitiſſe noveritis, niſi quia colorem hunc venerabilis ſenectus, et ſuperveniens canities aliquantulum alteravit. Statura ejus mediocris eſt, ut et inter parvos magnus appareat, nec inter majores minimus videatur. Caput ejus ſphæricum eſt, tanquam ſapientiæ magnæ ſedes, et alti conſilii ſpeciale ſacrarium. Ea vero eſt capitis quantitas, ut collo et toti corpori proportionali moderatione reſpondeat. Oculi ejus orbiculati ſunt, dum pacati eſt animi, columbini et ſimplices: ſed in ira et turbatione cordis quaſi ſcintillantes ignem et in impetu fulminantes. Cæſaries ejus damna calvitii non veretur, ſuperveniente tamen artificii capillorum tonſura. Leonina facies quaſi in quadrangulum ſe dilatat. Eminentia naris ad totius corporis venuſtatem naturali eſt moderatione propenſa. Arcuati pedes, equeſtres tibiæ, thorax extenſior, lacerti pugiles virum fortem, agilem, et audacem denunciant: in quodam tamen articulo pedis ejus pars unguis innaſcitur carni, atque in contumeliam totius pedis vehementer increſcit. Manus ejus quadam groſſitie ſua hominis incuriam proteſtantur. Earum enim cultum prorſus negligit; nec unquam, niſi aves deferat, utitur chyrothecis. Singulis diebus in miſſis, in conſiliis, et aliis publicis actionibus regni. Semper à mane uſque ad veſperam ſtat in pedes. Et licet tibias habeat frequenti percuſſione calcitrantium equorum enormiter vulneratas et lividas, niſi tamen equitet, vel comedat, nunquam ſedet. Una die, ſi opus fuerit, quatuor aut quinque diætas excurrit, et ſic, inimicorum machinamenta præveniens, artes eorum frequenter inopinata ſubitatione deludit. Ocreis ſine plica, pileis ſine faſtu, et veſtibus utitur expeditis. Vehemens amator nemorum, dum ceſſat à præliis, in avibus et canibus ſe exercet. Caro ſiquidem ejus ſe mole pinguedinis enormiter oneraſſet, niſi quia ventris inſolentiam jejuniis et exercitio domat, atque in aſcendendo equum, et in excurrendo, levitatem

adoleſcentiæ

adoleſcentiæ ſervans potentiſſimos ad laborem ſingulis fere diebus itinerando fatigat. Non enim, ſicut alii reges, in palatio ſuo jacet, ſed per provincias currens explorat facta omnium, illos potiſſime judicans, quos conſtituit judices aliorum. Nemo eſt argutior in conſiliis, in eloquio torrentior, ſecurior in periculis, in proſperis timidior, conſtantior in adverſis. Quem ſemel dilexit, vix dediligit: quem vero ſemel exoſum habuit, vix in gratiam familiaritatis admittit. Semper in manibus ejus ſunt arcus, enſes, venabula, et ſagittæ; niſi ſit in conſiliis, aut in libris. Quoties enim poteſt a curis et ſolicitudinibus reſpirare, ſecreta ſe occupat lectione, aut in cuneo clericorum aliquem nodum quæſtionis laborat evolvere. Nam cum rex veſter bene literas noverit, rex noſter longe literatior eſt. Ego enim in litterali ſcientia facultates utriuſque cognovi. Scitis, quod dominus rex Siciliæ per annum diſcipulus meus fuit, et qui à vobis verſificatoriæ atque litteratoriæ artis primitias habuerat, per induſtriam et ſolicitudinem meam beneficium ſcientiæ plenioris obtinuit. Quam cito autem egreſſus ſum regnum, ipſe libris abjectis ad otium ſe contulit palatinum.

Verumtamen apud dominum regem Anglorum, quotidiana ejus ſchola eſt litteratiſſimorum converſatio jugis, et diſcuſſio quæſtionum. Nullus rege noſtro eſt honeſtior in loquendo, in comedendo urbanior, moderatior in bibendo. Nullus magnificentior in donis, nullus munificentior in eleemoſynis: ideoque quaſi unguentum effuſum eſt nomen ejus, et eleemoſynas illius enarrat omnis Eccleſia Sanctorum. Rex noſter pacificus, victorioſus in bellis, glorioſus in pace: ſuper omnia deſiderabilia hujus mundi zelatur et procurat pacem populi ſui. Ad pacem populi ſpectat immenſitas illa pecuniarum, quam donat, quam recipit, quam congregat, quam diſpergit. In muris, in propugnaculis, in munitionibus, in foſſatis, in clauſuris ferarum et piſcium, et in palatiorum ædificiis nullus ſubtilior, nulluſque magnificentior invenitur. Pater ejus, potentiſſimus et nobiliſſimus comes, fines ſuos ampliſſime dilatavit: ſed iſte patris facultatibus ſupperaddens in fortitudine manus ſuæ ducatum Normanniæ, ducatum Aquitaniæ, ducatum Britanniæ, regnum Angliæ, regnum Scotiæ, regnum Hyberniæ, regnum Walliæ, paternæ magnificientiæ titulos inæſtimabiliter ampliavit. Nullus manſuetior eſt afflictis, nullus affabilior pauperibus, nullus importabilior eſt ſuperbis: quadam enim divinitatis imagine ſemper ſtuduit opprimere faſtuoſos, oppreſſos erigere, et adverſus ſuperbiæ tumorem continuas perſecutiones et exitiales moleſtias ſuſcitare. Cum autem juxta regni conſuetudinem in electionibus faciendis potiſſimas et potentiſſimas habeat partes, habuit tamen ſemper manus ab omni venalitate innoxias et immunes. Has et alias tam animi quam

corporis dotes, quibus ipſum natura egregie præ cæteris inſignivit, tango ſummotenus, non deſcribo: meam enim profiteor inſufficientiam, crederemque ſub tanta ſudare materia Tullium, aut Māronem. Illud ſane tantillum, quod de forma et moribus ejus, ad inſtantiam veſtram, breviter delibavi, mihi temeritati à pluribus adſcribetur: videbor enim, aut onus importabile præſumpſiſſe, aut plurimum de magnificentia tanti viri per invidentiam recidiſſe. Ego tamen veſtræ ſerviens caritati, quod poſſum facio, et quod ſcio veſtræ poſtulationi promptiſſima voluntate communico, atque inter cæteros magnificos viros, qui de laudibus domini mei ſcribunt, ego cum paupere vidua minutum devotionis gazophylacium mitto. Quod autem de morte beati martyris quæritis, in verbo domini et in ordine diaconi vobis dico, me nullo modo habere in conſcientia, ipſum hujus rei culpabilem exſtitiſſe: hujuſque fidem pleniſſimam vobis facient dominus Theodinus Portuenſis epiſcopus, et dominus Albertus Cancellarius, qui propter hoc in partibus noſtris legatione fungentes exploraverunt, et innocentiam viri cognoverunt, atque ſub umbra illius hoc a quibuſdam attentatum fuiſſe, totamque hanc iniquitatem à ſanctuario proceſſiſſe. Accepta ſiquidem ab eis canonica purgatione illius, illi de mandato ſummi pontificis publice ſententiaverunt, eum ab hoc crimine coram Deo et hominibus eſſe innoxium, et in quoſdam magnates, quorum malitiam in hac parte manifeſte convicerant, notam infamiæ retorſerunt. Illud quoque noveritis, dominum regem glorioſum martyrem in omnibus anguſtiis ſuis patronum habere præcipuum. Eadem ſiquidem die, qua primo tumulum martyris viſitavit, regem Scotiæ, perſecutorem et impugnatorem fortiſſimum, captum vinculis carceralibus mancipavit. Continuatoque deinceps favore ſucceſſuum ope martyris de univerſis hoſtibus glorioſiſſime triumphavit. Sciatis igitur certiſſime, quod caritatem illam, qua ſe olim rex et martyr mutuo dilexerunt, neque mors neque gladius abolevit: fortis enim eſt dilectio, ut mors: et cum omnia tranſeant, caritas nunquam excidit. Hæc eſt porta ſpecioſa, quæ in ſubverſione Hieruſalem integra et intacta permanſit: cumque omnia evacuentur in morte, dilectio in morte non moritur, cujus fortitudini mors ſuccumbit. Regnum quidem Angliæ, quod adverſus regem Stephanum armis ſtrenuiſſimum ſudoribus obtinuerat bellicis, licet adoleſcentulus et contemptus, filii ejus, conſilio et auxilio regum et principum circumjacentium, gravi ſeditione turbaverant. Ipſe autem deſtitutus ſuis, et ab extraneis impugnatus, illo aſpirante, in cujus virtute unus fugat decem millia, prævaluit univerſis, deditque in manus ejus hoſtes ſuos Dominus, ad alligandos reges eorum in compedibus, et nobiles eorum in manicis ferreis. Ille, qui convertit corda filiorum ad patrem, ipſos in affectione

affectione filiali nutriens ſedem patris in tempora longa ſtabiliat, et faciat pacem. Scio enim, quod ſi bella iterum ſuſcitaverint in parentem, ſuccidet eos dominus. Nam Dei judicio et lege fatali ſancitum eſt, ut quicunque de conſanguinitate illius bellis ipſum impugnare præſumpſerit, non dimidiet dies ſuos. Hoc autem in libro experientiæ jam de multis legimus, et fide oculata cognovimus.

N° III.

Harley, part 215. fol. 2. 6—36.

NOTUM ſit omnibus tam præſentibus quam futuris, quod hoc modo facta pax inter Lodowicum regem Francie, et regem Anglie Henricum. Rex Lodowicus reddidit regi Anglie omnia jura, et tenementa Henrici regis avi ſui, que tenebat die, qua fuit vivus ac mortuus, plene et integre; excepto Wilcaſſino. Et de Wilcaſſino remanſit regi Anglie feodum archiepiſcopi Rotomag', et feodum comitis ligicum de feodo Britollii, et feodum comitis Ebr'. Et totum remanens Wilcaſſini regi Francie; hoc modo, quod ipſe illud remanens dedit, et conceſſit maritagium cum filia ſua filio regis Anglie habendum. Et eum inde ſeiſiendum, ab aſſumptione beate Marie proxima poſt pacem factam, in tres annos, et ſi infra hunc terminum filia regis Francie filio regis Anglie deſponſata fuerit, aſſenſu et conſenſu Sancte Eccleſie, tunc erit rex Anglie ſeyſitus de toto Wilcaſſino, et de Caſtellis Wilcaſſini, ad opus filii ſui. Et ſi filia regis Francie infra hunc terminum obierit, Caſtella et Wilcaſſinum redibunt ad manum regis Francie; exceptis tribus feodis, que ſemper remanebunt regi Anglie ſoluta et quieta. Et iſta conventione, quod Caſtella remanebunt in cuſtodia militum Templi, uſque ad prædictum terminum: et habebunt redditus ad Caſtella cuſtodienda, quæ rex Francie in dominio habebat. Et interim, rex Francie habebit inde juſticiam, et homagia, et ſervicium. Et Gocelinus Criſpinus, et Goellius de Vaudemonte reverſi ſunt in homagia regis Francie, de eo quod habent in Wilcaſſino, et debent habere de ipſo. Et ſi rex Francie habuerit querelam verſus eos, que ſit ad juſticiam corporis, vel membrorum, ſive exheredacionem, ſive magnum gravamen pecunie, per conſilium regis Anglie deducetur. Per iſtam convencionem Caſtellum Stipinnei proſternetur, infra feſtum Sancti Johannis. Comes Ebr' Simon reverſus eſt in homagium regis Francie; et ſervicium quiete in hominibus et caſtellis ſuis, et caſtella ſua ei quieta remanebunt; ſicut ceteri barones

This is referred to in p. 102. vol. ii.

Francie caſtella ſua quieta habent. Et rex ſolvit, et quietos clamavit homines ejuſdem comitis omnes, à juramento quod ei fecerunt: et ipſum comitem ſimiliter abſolvit, de eo quod ad regem Francie pertinet. Et idem comes Ebr' habebit omnia jura ſua de foreſta Aquiline, ſicut jurata fuerunt per ſervientes regis Francie, et ipſius comitis. Sed ſi inter eos orta fuerit querela, per juramenta hominum et regis et comitis, qui hoc juraverunt, ex precepto regis, et ſine mala voluntate ejus recognitum erit. Et de domo Sancti Leodegarii, ſi comes eum requiſierit, de cuſtodia ejuſdem domus rex ei rectum tenebit. Præterea rex Francie reddidit regi Anglie omnia jura et tenementa comitis Pictavenſis, excepta Toloſa; hoc modo, quod rex Anglie conceſſit de Toloſa trevias, uſque die primo Pentecoſt poſt pacem, in unum annum, pro amore regis Francie, comiti Sancti Egidii; ſalvo honore ſuo, ſine malo ingenio, et ſine ſua et ſuorum heredum exheredacione. Et quicquid rex Anglie habebat de honore Toloſe, et Cadurco, et Cadurcino, ea die qua pax facta fuit, eidem regi Anglie remanebit; et ſi comes Sancti Egidii infra hunc terminum regi Anglie, vel ſuis hominibus, de predicto honore Toloſe, vel Cadurci, forisfecerit, et ad marchia in termino convenienti non emendaverit, rex Francie inde ulterius ſe non intromittet. Et ſi comes de Bargelim' et Trencavel', et ceteri homines regis Anglie illius patrie, noluerunt in trewis iſtis eſſe, et gwerram fecerint comiti Sancti Egidii, rex Anglie non juvabit eos infra hunc terminum contra iſtam convencionem.

Concedo et confirmo hiis teſtibus: Petro Pariſiac', Hugone Sueſoinenſ', Roberto Ebroic', Ernaldo Exc', Philippo Baiocenſ', Rogero Sagienſi, Hugone Dunelm' Epiſcopo, Thoma Cancellar', Comite Flandrenſ', Teodorico Comite, Henrico Comite Sueſionenſ', Comite Belli Montis, Teodor' Wilerianno, Willelmo Pavet, Magiſtro Templi et Fratribus, Otton'. de Sancto Ludonir', Giliberto de Laci, Ricardo de Haſting', Petro Epiſcopo, Roberto de Piro, Willelmo fratre regis Anglie, Comite Millet'ino, Ricardo de Humet, Jordano Taxo.

N° IV.

Judicia Civitatis Lundoniæ, p. 71. *Wilkins Leges Anglo-Saxonicæ.*

This refers to p. 173. vol. ii.

ET ſi mercator tamen ſit, qui ter trans altum mare per facultates proprias abeat, ille poſtea jure Thani ſit dignus.

N° V.

N° V.

Madox's Hiſtory of the Exchequer, p. 174. ch. vii. note *e*.

JOHANNES Dei gratia &c. Sciatis nos conceſſiſſe omnibus Judæis Angliæ et Normanniæ libere et *honorifice* habere reſidentiam in terra noſtra, et omnia illa de nobis tenenda quæ tenuerunt de rege H. avo patris noſtri, et omnia illa quæ modo rationabiliter tenent, in terris, feodis, et vadiis, et akatis ſuis, et quod habeant omnes libertates et conſuetudines ſuas, ſicut eas habuerunt tempore prædicti regis H. avi patris noſtri, melius et quietius et *honorabilius*. Et ſi querela orta fuerit inter Chriſtianum et Judæum, ille qui alium apellaverit, ad querelam ſuam dirationandam habeat teſtes, ſcilicet legitimum Chriſtianum et legitimum Judæum. Et ſi Judæus de querela ſua breve habuerit, breve ſuum erit ei teſtis. Et ſi Chriſtianus habuerit querelam adverſus Judæum, ſit judicata per pares Judæi. Et cum Judæus obierit, non detineatur corpus ſuum ſuper terram, ſed habeat hæres ſuus pecuniam ſuam et debita ſua, ita quod inde non diſturbetur, ſi habuerit hæredem qui pro ipſo reſpondeat, et rectum faciat de debitis ſuis et de forisfacto ſuo. Et liceat Judæis omnia quæ eis apportata fuerint ſine occaſione accipere et emere, exceptis illis quæ de eccleſia ſunt et panno ſanguinolento. Et ſi Judæus ab aliquo apellatus fuerit ſine teſte, de illo apellatu erit quietus ſolo ſacramento ſuo ſuper librum ſuum. Et de apellatu illarum rerum quæ ad coronam noſtram pertinent ſimiliter quietus erit ſolo ſacramento ſuo ſuper rotulum ſuum. Et ſi inter Chriſtianum et Judæum fuerit diſſenſio de acommodatione alicujus pecuniæ, Judæus probabit catallum ſuum et Chriſtianus lucrum. Et liceat Judæo quiete vendere vadium ſuum, poſtquam certus erit eum illud unum annum integrum et unum diem tenuiſſe. Et Judæi non intrabunt in placitum niſi coram nobis, vel coram illis qui turres noſtras cuſtodierint, in quorum ballivis Judæi manſerint. Et ubicunque Judæi fuerint, liceat eis ire quocunque voluerint cum omnibus catallis eorum ſicut res noſtræ propriæ, et nulli liceat eos retinere neque hoc eis prohibere. Et præcipimus quod ipſi quieti ſint per totam Angliam et Normanniam de omnibus conſuetudinibus, et theloniis, et modiatione vini, ſicut noſtrum proprium catallum. Et mandamus vobis et præcipimus, quod eos cuſtodiatis, et defendatis, et manuteneatis. Et prohibemus ne quis contra cartam iſtam de hiis ſupradictis eos in placitum ponat, ſuper forisfacturam noſtram, *ſicut carta regis*

This refers to p. 308, 309. vol. ii.

regis H. patris noſtri rationabiliter teſtatur. Teſtibus Gaufrido filio Petri Comite Eſſexiæ, Willielmo Mareſcallo Comite de Penbroc, Henrico de Bohun Comite de Hereford, Roberto de Turnham, Willelmo Briwer, &c. Datum per manum S. Wellenſis Archidiaconi apud Merleberg, decimo die Aprilis, anno regni noſtri ſecundo.

Rot. Cart. 2. Joh. n. 49. titulo Carta Judæorum Angliæ.

N° VI.

Charta Regis Willielmi Conqueſt. de legibus boni Regis Edwardi Conf. ſtabiliendis; facta in vit. ante ann. ejus 4. Domini noſtri 1070, *precibus Willielmi London. Epiſcopi, qui dicto anno obiit.*

This and the two following charters of Hen. I. and Hen. II, are referred to in p. 313. vol. ii.

WILLIELMUS Rex ſalutat Willielmum Epiſcopum, et Godfridum Portegreſium, et omnem Burghware, infra London. Franc. et Angl. amicabiliter. *Et vobis notum facio, quod ego volo quod vos ſitis omni lege illâ digni quâ fuiſtis Edwardi diebus regis. Et volo quod omnis puer ſit patris ſui hæres poſt diem patris ſui* *. Et ego nolo pati, quod aliquis homo aliquam injuriam vobis inferat. Deus vos ſalvet.

N° VII.

Wilkins Leges Anglo-Saxon, p. 235.

HENRICUS Dei gratia rex Angliæ, Archiepiſcopo Cantuariæ, et Epiſcopis, et Abbatibus, et Comitibus, et Baronibus, et Juſtitiariis, et Vicecomitibus, et omnibus fidelibus ſuis Francis et Anglicis totius Angliæ, Salutem. Sciatis me conceſſiſſe civibus meis *London* tenend' *Middleſex* ad firmam pro ccc. libr' ad compotum ipſius et hæredibus ſuis, de me et hæredibus meis, ita quod ipſi cives ponent vicecom' qualem voluerint de ſeipſis et juſtitiar' qualem voluerint de ſeipſis ad cuſtodiend' placita coronæ meæ et eadem placitanda, et nullus alius erit juſtitiarius

* By the clauſes markt in Italicks I underſtand that the benefit of all the laws of King Edward, or thoſe they enjoyed in his time, was confirmed to the magiſtrates and citizens of London, and the right of inheritance to their children, ſo as not to be forfeited by any offences of the fathers. They are ſtrangely tranſlated by Dr. Brady.

ſuper

ſuper ipſos homines *London*, et cives non placitabunt extra muros civitatis pro nullo placito, et ſint quieti de *eſchot* et de *danegildo* et de *murdro*, et nullus eorum *faciat bellum* *. Et ſi quis civium de placitis coronæ implacitatus fuerit per ſacramentum quod judicatum fuerit in civitate, ſe diſrationet homo *London*, et intra muros civitatis nullus hoſpitetur, neque de mea familia, neque de alia, vi alicui hoſpitium liberetur. Et omnes homines *London* ſint quieti et liberi, et omnes res eorum per totam Angliam et per portus maris de *thelonio* et *paſſagio* et *leſtagio (laſtagio)*, et omnibus aliis conſuetudinibus; et eccleſiæ et barones, et cives teneant et habeant bene et in pace ſocnas ſuas cum omnibus conſuetudinibus, ita quod hoſpites, qui in ſoccis ſuis hoſpitantur, non dent conſuetudines ſuas, niſi illi cujus ſocca fuerit vel miniſtro ſuo quem ibi ſibi poſuerit. Et homo Londoniarum non judicetur in miſericordia pecuniæ, niſi in ſua Were, ſcilicet ad c ſolid. Dico de placito quod ad pecuniam pertineat. Et amplius non ſit *miſkenninga* in *huſtenge*, neque in *folkeſmote*, neque in aliis placitis intra civitatem. Et *huſting* ſedeat ſemel in ebdomada, videlicet, die Lunæ: et terras ſuas, et *wardemotum*, et debita civibus meis habere faciam intra civitatem, et extra. Et de terris de quibus ad me clamaverint rectum eis tenebo lege civitatis. Et ſi quis *thelonium* vel conſuetudinem à civibus *London* ceperit, cives *London* capiant de burgo, vel de villa, ubi theloneum vel conſuetudo capta fuit, quantum homo *London* pro *thelonio* dedit, et proinde de dampno ceperit. Et omnes debitores qui civibus debita debent, eis reddant, vel in *London* ſe diſrationent quod non debent. Quod ſi reddere noluerint, neque ad diſrationandum venire, tunc cives quibus debita ſua debent capiant intra civitatem namia ſua, vel de comitatu in quo manet qui debitum debet. Et cives habeant fugationes ſuas ad fugandum, ſicut melius et plenius habuerunt anteceſſores eorum, ſcilicet *Ciltre*, et *Midleſex*, et *Sureie*. Teſte Epiſcopo Winton', Rob. fil' Richer, et Hug. Bigot, et Alver' de Toneis et Willielmo Albini, et Huberto Regis Camerar' et Willielmo de Montfichet, et Hagulfo de Tani, et Joh' Delet, et Rob. fil. Siwa.

Dat. apud Weſtm'.

* This means exemption from the Norman trial by *Duel*.

N. B. I have corrected ſome words of the tranſcript of this Charter as it is given by Wilkins in his Anglo-Saxon Laws, from the various readings in his notes; and in ſome places I have altered the ſtops which he has put to it, or inſerted a copulative, in order to make a better and clearer ſenſe. Some paſſages ſeem ſtill to want a further correction.

N° VIII.

Ibid. p. 319.

Carta Libertatum Regis Henrici ſecundi, Londonienſibus conceſſarum.

HENRICUS Dei gratia &c. Archiepiſcopis, Epiſcopis, Abbatibus, Baronibus, Juſtitiis, Vicecomitibus, Miniſtris, et omnibus fidelibus ſuis, Francis et Anglis, Salutem.

Sciatis, me confirmaſſe civibus meis *London.* quod nullus eorum placitet extra muros civitatis London. de ullo placito præter placita de tenuris exterioribus, exceptis meis monetariis, et miniſtris meis.

Conceſſi etiam eis quietantiam murdri infra urbem et portſocna: et quod nullus faciet bellum: et quod de placitis ad coronam ſe poſſunt diſrationare ſecundum antiquam conſuetudinem civitatis: et quod intra muros nemo capiat hoſpitium per vim, vel per liberationem mareſcalli.

Hoc etiam eis conceſſi, quod omnes cives *Londoniarum* ſint quieti de thelonio et leſtagio per totam Angliam, et per portum maris: et quod nullus de materia pecuniæ judicetur, niſi ſecundum legem civitatis, quam habuerunt tempore Henrici avi mei: et quod in civitate in nullo placito ſit *miſkeninga:* et quod *huſtingus* ſemel tantum in hebdomada teneatur: et quod terras ſuas, et tenuras, et vadimonia, et debita omnia juſte habeant, quicunque eis debeat; et de terris ſuis et tenuris, quæ infra urbem ſunt, rectum eis teneatur ſecundum legem civitatis, et de omnibus debitis ſuis quæ accommodata fuerint apud *London.* et de vadimoniis ibidem factis, placita apud *London.* teneantur. Et ſi quis in tota Anglia theloneum vel conſuetudinem ab *London.* ceperit, poſtquam ipſe a recto defecerit, vicecomes *London.* namium inde apud *London.* capiat. Concedo etiam eis, quod habeant fugationes ſuas, ubicunque eas habuerunt tempore regis Henrici, avi mei.

Inſuper etiam ad emendationem civitatis eis conceſſi, quod ſint quieti de Brud toll, et de Childwyte, et de Yaraſgive, et de Scotale; ita quod vicecomes meus *London.* vel aliquis alius Ballivus Scotale non faciat.

Has prædictas conſuetudines eis concedo, et omnes alias libertates quas habuerunt tempore Henrici regis, avi mei.

Quare volo et firmiter præcipio, quod ipſi et hæredes eorum hæc prædicta omnia hæreditarie habeant et teneant de me et hæredibus meis. Hiis teſtibus, Archiepiſcopo Cantuariæ, Epiſcopo London.

N° IX.

N° IX.

Madox's Hiſtory of the Exchequer, p. 276. ch. xi. note *g*.

JOHANNES Dei gratia &c. Sciatis nos conceſſiſſe, et præſenti carta confirmaſſe, burgenſibus noſtris de Dunewichge, quod burgum de Dunewichge ſit liberum burgum noſtrum; et habeat ſoccam, et ſaccam, et toll, et theam, et infangenthef; et quod ipſi per totam terram noſtram quieti ſint de thelonio, et leſtagio, et paſſagio, et pontagio, et ſtallagio, et de leue, et de danegeld, et de ewagio, de wrec et lagan, et de omnibus aliis conſuetudinibus; ſalva libertate civitatis Londoniæ; et quod ipſi rectam et ſolitam firmam ſuam per manum ſuam reddant ad ſcaccarium noſtrum; et quod nullam ſectam faciant comitatuum vel hundredorum, niſi coram juſticiariis noſtris; et cum ſummoniti fuerint eſſe coram juſticiariis, mittant pro ſe XII legales homines de burgo ſuo, qui ſint pro eis omnibus; et ſi forte amerciari debuerint, per ſex probos homines de burgo ſuo et per ſex probos homines extra burgum amercientur. Conceſſimus etiam eis, quod filios et filias ſuas poſſunt libere ubi voluerint in terra noſtra maritare, et viduas ſimiliter per conſilium amicorum ſuorum; et perquiſitiones ſuas de terris et edificiis in villa ſua poſſint dare aut vendere, aut facere inde quod voluerint et quando voluerint. Conceſſimus etiam eis Hanſam et Gildam mercatoriam, *ſicut habere conſueverunt*. Quare volumus et firmiter præcipimus, quod prædicti burgenſes noſtri prænominatas libertates et liberas conſuetudines habeant et teneant, libere pacifice et integre, ſine omni impedimento.

This is referred to in p. 317. and 318. vol. ii.

T. E. Elyenſi Epiſcopo. Willielmo Mareſcallo &c. Data per manum H. Cantuarienſis Archiepiſcopi, Cancellarii noſtri, apud Rupem Aurivallis XXIX die Junii anno r. n. primo.

Rot. Cart. 1 *Joh. p.* 2. *n.* 164.

N° X.

Royal 4. *l.* xi. *Maſter Wace writes thus concerning the Fleet of William the Conqueror. Fol.* 17. *b.*

NE vos voil mie metre en letre,
Ne io ne men voil entremetre:
Quels barons et quanz chevaliers
Quanz vavaſors et quanz ſoldeiers
Out li duc en ſa compaignie,
Quant il out priſt tout ſon navie.
Mais io oi dire à mon pere,
Bien men ſouvient, mais vaſlet ere,
Que ſept cenz nes, quatre moins, furent
Quant de Saint Valeri s'eſmurent,
Que nes, que batels, que eſqueis,
A porter armes et herneis.
Et io ai en eſcrit trové,
(Ne ſais dire s'eſt verité:)
Que il y out treis mil nès
Qui porterent voiles et tres.
A tantes nès pout lon ſavoir:
Que mult i pout grant gent avoir.

Speaking of Taillefer, he ſays,

Devant le duc aloit chantant
De Karlemaigne, et de Rollant,
D'Olivier, et del vaſſals
Qui moururent en Roncevals.

APPENDIX

TO THE

THIRD BOOK

OF THE

History of the Life of King Henry the Second.

VOLUME II.

N° I.

Extract from the Remonſtrance of the Parliament of Paris to the King of France, of the 9th of April 1753.

DES Eccleſiaſtiques redoublent leurs efforts pour affermir une ſyſteme d'independance, dont les fondemens ont eté poſés il y a près de mille ans, dont les principes ont eté liés, developpés, et ſuivis, de ſiecle en ſiecle, dans la conduite de pluſieurs miniſtres de l'egliſe; et dont les effects inevitables, ſans la vigilance et la fermeté des magiſtrats, ſeroient l'abus le plus enorme de votre auguſte nom, ainſi que de la religion, l'aneantiſſement du bon ordre et du repos public, des juriſdictions reglées, des loix, de votre ſouvairainté même, et, par conſequent, de l'etat entier.

This refers to the firſt page of Book iii.

N° II.

N° II.

Conſtitutions of Clarendon, from the Cottonian Manuſcript of Becket's Life and Epiſtles, which is probably the moſt ancient and correct Copy of thoſe Statutes.

MS. Cotton. Claud. B. *fol.* 26.

This refers to book iii. page 354 and 397.

ANNO ab Incarnatione Domini milleſimo centeſimo ſexageſimo quarto, papatus Alexandri anno quarto, illuſtriſſimi regis Anglorum Henrici II. anno decimo, in preſentia ejuſdem regis, facta eſt iſta recordatio vel recognitio cujuſdam partis conſuetudinum, et libertatum, et dignitatum anteceſſorum ſuorum, videlicet regis Henrici, avi ſui, et aliorum, quæ obſervari et teneri debent in regno. Et propter diſſenſiones et diſcordias, quæ emerſerant inter clerum et juſticias domini regis, et barones regni, de conſuetudinibus et dignitatibus regni, facta eſt iſta recognitio coram archiepiſcopis et epiſcopis et clero, et comitibus et baronibus et proceribus regni. Et eaſdem conſuetudines recognitas per archiepiſcopos et epiſcopos, et comites et barones, et per nobiliores et antiquiores regni, Thomas Cantuarienſis archiepiſcopus et Rogerus Eboracenſis archiepiſcopus, et Gilbertus Londonienſis epiſcopus, et Henricus Wintonienſis epiſcopus, et Nigellus Elienſis epiſcopus, et Wilhelmus Norvicenſis epiſcopus, et Robertus Lincolnienſis epiſcopus, et Hilarius Ciceſtrenſis epiſcopus, et Joſelinus Sariſberienſis epiſcopus, et Richardus Ceſtrenſis epiſcopus, et Bartholomeus Exonienſis epiſcopus, et Robertus Herefordenſis epiſcopus, et David Menevenſis epiſcopus, et Rogerus Wigornenſis electus, conceſſerunt, et in verbo veritatis viva voce firmiter promiſerunt, tenendas et obſervandas domino regi et heredibus ſuis, bona fide, et abſque malo ingenio, preſentibus iſtis: Roberto comite Leghecеſtriæ, Reginaldo comite Cornubie, Conano comite Britannie, Johanne comite de Augo, Rogerio comite de Clara, comite Gaufredo de Mandevilla, Hugone comite Ceſtrie, Wilhelmo comite de Arundel, comite Patricio, Wilhelmo comite de Ferrariis, Richardo de Luci, Reginaldo de Sancto Walerico, Rogerio Bigod, Reginaldo de Warennis, Rogerio de Aquila, Wilhelmo de Braoſia, Richardo de Camvilla, Nigello de Mobrai, Simone de Bello-Campo, Hunfrido de Boun (Bohun), Matheo de Hereſordia, Waltero de Meduana, Manaſſero Biſeth dapifero, Wilhelmo Malet, Wilhelmo de Curci, Roberto de Duneſtanvilla, Joſelino de Lanvalis, Wilhelmo de Caiſneto, Gaufrido de Ver, Wilhelmo de Haſtinges, Hugone

Hugone de Moravilla, Alano de Nevilla, Simone filio Petri, Wilhelmo Maudut camerario, Johanne Maudut, Johanne Mariſchallo, Petro de Mara, et multis aliis proceribus et nobilibus regni, tam clericis quam laicis.

Conſuetudinum vero et dignitatum regni recognitarum quædam pars preſenti ſcripto continetur. Cujus partis capitula hæc ſunt.

(Incipiunt conſuetudines quas avitas vocant*.)

I. De advocatione et præſentatione eccleſiarum, ſi controverſia emerſerit inter laicos, vel inter clericos et laicos, vel inter clericos, in curia domini regis tractetur vel terminetur.

II. Eccleſiæ de feudo domini regis non poſſunt in perpetuum dari ſine aſſenſu et conceſſione ipſius.

III. Clerici rectati, et accuſati de quâcumque re, ſummoniti a juſticia regis venient in curiam ipſius, reſponſuri ibidem de hoc unde videbitur curiæ regis quod ſit ibi reſpondendum, et in curia eccleſiaſtica unde videbitur quod ibidem ſit reſpondendum, ita quod juſticia regis mittet in curiam ſanctæ eccleſiæ ad videndum qua ratione res ibi tractabitur. Et ſi clericus convictus vel confeſſus fuerit, non debet de cætero eum eccleſia tueri.

IV. Archiepiſcopis, epiſcopis, et perſonis regni non licet exire de regno abſque licentia domini regis. Et ſi exierint, ſi domino regi placuerit, aſſecurabunt quod nec in eundo, nec in moram faciendo, nec in redeundo perquirent malum vel dampnum regi vel regno.

V. Excommunicati non debent dare vadium ad remanens, nec præſtare juramentum, ſed tantum vadium et plegium ſtandi judicio eccleſiæ ut abſolvantur.

VI. Laici non debent accuſari niſi per certos et legales accuſatores et teſtes in præſentia epiſcopi, ita quod archidiaconus non perdat jus ſuum, nec quicquam quod inde habere debeat. Et ſi tales fuerint qui culpantur, quod non velit vel non audeat aliquis eos accuſare, vicecomes requiſitus ab epiſcopo faciet jurare duodecim legales homines de vicineto, ceu de villa, coram epiſcopo, quod inde veritatem ſecundum conſcientiam ſuam manifeſtabunt.

VII. Nullus qui de rege tenet in capite, nec aliquis dominicorum miniſtrorum ejus, excommunicetur, nec terræ alicujus eorum ſub interdicto ponantur, niſi prius dominus rex, ſi in terra fuerit, conveniatur, vel juſticia ejus, ſi fuerit extra regnum, ut rectum de ipſo faciat, et ita, ut quod pertinebit ad curiam regiam ibidem terminetur, et de eo quod ſpectabit ad eccleſiaſticam curiam ad eandem mittatur, ut ibidem terminetur.

VIII. De appellationibus, ſi emerſerint, ab archidiacono debent procedere ad epiſcopum, et ab epiſcopo ad archiepiſcopum. Et ſi archie-

* Theſe words ſeem to have been inſerted by the Monk who made the tranſcript.

piſcopus

piſcopus defecerit in juſticia exhibenda, ad dominum regem perveniendum eſt poſtremo, ut præcepto ipſius in curia archiepiſcopi controverſia terminetur, ita quod non debet ulterius procedere abſque aſſenſu domini regis.

IX. Si calumpnia emerſerit inter clericum et laicum, vel inter laicum et clericum, de ullo tenemento, quod clericus ad eleemoſinam velit attrahere, laicus vero ad laicum feudum, recognitione duodecim legalium hominum per capitalis juſticiæ regis conſiderationem terminabitur, utrum tenementum ſit pertinens ad eleemoſinam, ſive ad feudum laicum, coram ipſa juſticia regis. Et ſi recognitum fuerit ad eleemoſinam pertinere, placitum erit in curia eccleſiaſtica; ſi vero ad laicum feudum, niſi ambo tenementum de eodem epiſcopo vel barone advocaverint, erit placitum in curia regia. Sed, ſi uterque advocaverit de feudo illo eundem epiſcopum vel baronem, erit placitum in curia ipſius. Ita quod propter factam recognitionem ſeiſinam non amittat qui prior ſeiſitus fuerat, donec per placitum dirationatum fuerit.

X. Qui de civitate, vel caſtello, vel burgo, vel dominico manerio domini regis fuerit, ſi ab archidiacono vel epiſcopo ſuper aliquo delicto citatus fuerit unde debeat eiſdem reſpondere, et ad citationes eorum ſatisfacere noluerit, bene licet eum ſub interdicto ponere: ſed non debet excommunicari priuſquam capitalis miniſter domini regis villæ illius conveniatur, ut juſticiet eum ad ſatisfactionem venire. Et ſi miniſter regis inde defecerit, ipſe erit in miſericordia domini regis, et exinde poterit epiſcopus accuſatum eccleſiaſtica juſticia cohibere.

XI. Archiepiſcopi, epiſcopi, et univerſæ perſonæ regni qui de rege tenent in capite, habent poſſeſſiones ſuas de domino rege ſicut baroniam, et inde reſpondent juſticiis et miniſtris regis, et ſecuntur [ſequuntur] et faciunt omnes rectitudines et conſuetudines regias, et, ſicut barones cæteri, debent intereſſe judiciis curiæ domini regis cum baronibus, uſque perveniatur in judicio ad diminutionem membrorum vel mortem.

XII. Cum vacaverit archiepiſcopatus, vel epiſcopatus, vel abbatia, vel prioratus de dominio regis, debet eſſe in manu ipſius, et inde percipiet omnes reditus et exitus, ſicut dominicos. Et cum ventum fuerit ad conſulendum eccleſiæ, debet dominus rex mandare potiores perſonas eccleſiæ, et in capella ipſius domini regis debet fieri electio aſſenſu domini regis et conſilio perſonarum regni quas ad hoc faciendum vocaverit. Et ibidem faciet electus homagium et fidelitatem domino regi, ſicut ligio domino, de vita ſua, et de membris, et de honore ſuo terreno (ſalvo ordine ſuo) priuſquam ſit conſecratus.

XIII. Si quiſquam de proceribus regni defortiaverit archiepiſcopo, vel epiſcopo, vel archidiacono, de ſe vel de ſuis juſticiam exhibere, dominus

rex debet eos juſticiare. Et ſi forte aliquis diſſortiaret D. regi rectitudinem ſuam, archiepiſcopi et epiſcopi et archidiaconi debent eum juſticiare ut dom. regi ſatisfaciat.

XIV. Catalla eorum qui ſunt in foris facto regis non detineat eccleſia vel cemiterium contra juſticiam regis, quia ipſius regis ſunt, ſive in eccleſiis, ſive extra fuerint inventa.

XV. Placita de debitis, quæ fide interpoſitâ debentur, vel abſque interpoſitione fidei, ſint in juſticiâ regis.

XVI. Filii ruſticorum non debent ordinari abſque aſſenſu domini de cujus terrâ nati eſſe dignoſcuntur.

Facta eſt etiam prædictarum conſuetudinum et dignitatum recordatio regiarum à præfatis archiepiſcopis, et epiſcopis, et comitibus, et baronibus, et nobilioribus et antiquioribus regni, apud Clarendonam, quarto die ante purificationem S. Mariæ, perpetuæ virginis, domino Henrico, cum patre ſuo domino rege, ibidem præſente.

Sunt autem et aliæ multæ et magnæ conſuetudines et dignitates S. matris eccleſiæ, et domini regis, et baronum regni, quæ in hoc ſcripto non continentur. Quæ ſalvæ ſint S. eccleſiæ, et D. regi, et hæredibus ſuis, et baronibus regni, et in perpetuum inviolabiliter obſerventur.

N° III.

Bibl. Cotton. Claudius, B. ii. 3. *folio* 92.

Thome Cantuarienſi Archiepiſcopo, Gillebertus Londonienſis Epiſcopus 126.

VENERABILI Domino et Patri in Chriſto Thome Cantuarienſi Archiepiſcopo, Gillebertus Londonienſis eccleſie miniſter, ſalutem. Multiplicem nobis et diffuſam late materiam, profunde Pater, et copioſe reſcribendo proponitis, et nos, licet ſuper appellatione ad dominum Papam proſequenda ſollicitos, veſtre tamen ſublimitati reſcribere gravi quidem et nos graviter urgente neceſſitate compellitis. Emiſſis enim ſparſim elogiis nos de toto fratrum noſtrorum collegio ſeorſum ponitis ad convitia, ut ſingulariter in nos, etſi immeritos, ignominioſa congeratis et probra. Sobrii ſenſus hominem, gravitatis reverende perſonam, magiſtrum, ratione prelationis et dogmatis, veritati reverenter obnoxium, mirum eſt ad verba veritatis exarſiſſe tam graviter, et, velut evocatum ad

This refers to book iii. page 433, and other paſſages in this hiſtory.

coleras, innocentiam filii piè patri conſulentem non ſolum non admiſiſſe, ſed et ipſius opinionem nota quadam malitiæ, cujus ſibi minime conſcius eſt, ejus non id exigente merito, reſperſiſſe: unde, cum eccleſiam Dei ſubvertere, fas nefaſque confundere, montem illum, qui eccleſia et columpna Dei viventis eſt, non ſano capite velle dejicere, ad ea que veſtra ſunt ambiſſe, et quod ab his obtinendis repulſi fuerimus, ob id veſtram eccleſieque Dei pacem temere perturbaſſe, in bello domini terga dediſſe, emiſſis ſcriptis publice denotemur, difficile eſt ut fileamus, ut hanc adverſum nos opinionem, vel a preſentibus admitti, vel indefenſam future poſteritati tranſmitti, confeſſionem innuente ſilentio, permittamus. Cum ſit itaque malorum radix et origo cupiditas, ne nos hujus ſuſpectos habeant quibus prava ſuadentur e facili, nos hinc jubet neceſſitas exordiri. Ait apoſtolus, Quis ſcit hominum occulta hominis, niſi ſpiritus hominis qui eſt in ipſo? Latent quidem homines occulta hominum, et abyſſum cordium de celo dominus intuetur. Ipſum ignota non tranſeunt, occulta non fallunt. Eſt enim ſermo Dei vivus et efficax, penetrabiliorque omni gladio ancipiti: nec eſt ulla creatura inviſibilis in conſpectu ejus. Ipſi et coram ipſo loquimur. Sub ipſius examine non vana aut ficta, ſed que veritate conſcientie ſubnixa ſunt, confidenter et liberè reſpondemus; afferentes utique, quoniam ad ea quæ veſtra ſunt ambitionis ſtimulos nunquam vel momento ſenſimus. Honorem hunc nulli unquam invidimus. Nulli ad hanc gratiam munere vel obſequio, gratiâ vel favore, deſervivimus, ut ad hujus faſtigia culminis acceſſum nobis ſacrilegum, quibuſcunque modis aut adminiculis, aptaremus. Quis hoc melius, pater, quam vos, quis poterit liquidius eſtimare, quem ipſius eceleſie tunc temporis archidiaconum, et domini noſtri regis electum e milibus, non conſiliarium ſolummodo, ſed cor fuiſſe conſtat et conſilium; ſine quo non quidem facile, ſed nec erat poſſibile, ad hæc omnino quempiam obtinere progreſſum? nobis itaque quam apud vos gratiam collocavimus? num per nos, aut per alium, veſtram unquam gratiam xeniis aut obſequiis attemptavimus, ut ad quod niſi per vos attingi non poterat in id ope veſtra ſublevaremur? Hinc veſtram, pater, juſtum eſt metiri prudentiam, quales nos aliis exhibuerimus, qui nec veſtre celſitudini, quam rerum ſumma ſequebatur, ad turpe ſupplicare compendium, nec aliquâ favoris gratiâ unquam vel in modico blandire curavimus. Rem hoc fine concludimus, hoc nobis onus ipſi confidenter imponimus, ut ſit nobis illa die repoſitum, ſi nos hujus culpe conſcios in aliquo reprehendit cor noſtrum. Non noſtram itaque, pater, non noſtrorum in veſtra promotione repulſam planximus. Illo quidem die non noſtra querere, ſed que Domini noſtri Jeſu Chriſti; non nobis, ſed ejus nomini in omnibus gloriam

riam exhiberi, toto cordis affectu defideravimus. Attendentes rem ſecus fieri, condoluimus. Cernentes jus eccleſie ſubverti, fas neſasque confundi, montis illius magni quem dicitis deorſum cacumen inflecti, ſponſam Chriſti libertate priſtinâ, ſibi ſemper uſque tunc obſervatâ reverenter et exhibitâ, inverecundè privari, altis utique in Domino ſuſpiriis ingemuimus, et dolorum quos nunc experimur aſſiduè prelibationes et preſagia certa, quâdam divini ſpiritus inſinuatione, multi quidem in eccleſiâ Dei preſenſimus. Oportebat equidem ejus tunc meminiſſe quod ſcriptum eſt, "Difficile eſt ut bono peragantur exitu, que malis fuerint inchoata principiis." Ad ipſa quidem ſi recurramus initia, quis toto orbe noſtro, quis ignorat, quis tam reſupinus ut neſciat, vos, certâ licitatione propoſitâ, cancellariam illam dignitatem multis marcarum milibus obtinuiſſe, et aure hujus impulſu in portum Cantuarienſis eccleſie illapſum ad ejus tandem ſic regimen acceſſiſſe? quam piè, quam ſanctè, quam canonicè, quo vite merito id exigente, multis quidem notum eſt, et ſtilo quodam doloris intimi bonorum eſt cordibus exaratum. Diem ſuum clauſerat ille bonus et bone memorie pater noſter, Theobaldus eccleſie Cantuarienſis dudum archiepiſcopus; et vos, qui cordis oculos in caſum hunc pervigiles minime claudebatis, confeſtim à Normanniâ celeres in Angliam reditus habuiſtis. Ex intervallo directus eſt a domini noſtri regis latere vir magnus, et ſapiens moderator regni, Ricardus de Luci, quem laqueis anathematis innodatum hodie dignè ſic merito honoraſtis. Regis hic ad omnes habebat imperium, ut Cantuarienſes monachi et eccleſie ipſius epiſcopi ſuffraganei vos expeterent, vos eligerent, vos in patrem et paſtorem, negotium nullâ deliberationum morâ protrahentes aſſumerent; alioquin iram regiam non unquam declinarent; verum ſe regis hoſtes et ſuorum, procul dubio, ipſis rerum argumentis agnoſcerent. Quod loquimur experto novimus, attendentes eccleſiam Dei ſuffocari graviter, ob quod in ejus libertatem quodammodo proclamavimus, verbum ilico proſcriptionis audivimus, et exilio crudeliter addicti ſumus: *nec ſolum perſona noſtra, ſed et domus patris mei, et conjuncta nobis affinitas, et cognatio tota. Hoc quidem calice et aliis propinatum eſt.* Scriptum vero eſt; Leo rugiet,, quis non timebit? Et illud, Ut rugitus leonis, ſic terror regis. Quod tanto voluntatis impetu precipiebat rex, quod effectum compleri tanto nuncio perurgebat, in quod cordis oculos vos omnes injeciſſe noverant, in quod omnes veſtri minis et terroribus, promiſſis et blanditiis, vigilanter inſtabant, quis negaret? Torrenti huic voluntatis et precepti regii quis reſiſteret? Stabat regni gladius in manu veſtra, ſi in quem torvos oculos habebatis, terribilis in hunc et importabilis ire quodam velut igne coruſcans: Ille quidem gladius quem in ſancte matris eccleſie viſcera veſtra manus paulo ante immerſerat, cum,

ad trajiciendum in Toloſam exercitum, tot ipſam marcarum milibus aperuiſtis. Qui ne limatus denuo per vos aptaretur ad vulnera, juſſis obtemperavit eccleſia, et, declinando que metuit, ſimulavit ſe velle quod noluit. O! quam longè erant omnium corda bonorum ab hoc ipſo, quam diſſidentia vota! Metu tamen et impreſſione completum quod interminatione diriſſimâ fuerat imperatum. Sic in ovile ovium, non utique per oſtium, ſed aſcendens aliunde, introiſtis; et hoc, pater, introitu libertatem eccleſie, tot ſibi temporum conſervatam curriculis, ademiſtis. Que ſi ejus vita eſt, ut ſcribitis, ipſam utique exanimem reddidiſtis. Deus bone! quis horror illa die, quis omnes horror invaſit, cum prognoſticum illud de more conſpectum et circumaſtantium oculis eſt oblatum: illud, inquam, prognoſticum,quod, in futuri caſus indicium, evangeliſtâ Mattheo quaſi vaticinante, prolatum eſt! Ait enim Dominus ficulno non habenti fructum, Nunquam ex te fructus naſcatur in ſempiternum: et arefacta eſt continuo. Oportuiſſet igitur illo die non recta mandanti principi reſpondiſſe, quod oportet Deo obedire magis quam hominibus. Illo utinam die corda noſtra plenè timor ejus occupaſſet, qui poteſt animam in gehennâ perdere, et non ſolum corpus occidere. Quod quia ſecus actum eſt, parit nobis enormitas hec erubeſcentiam, erubeſcentia confuſionem, confuſio penitentiam, que condignam inferet opem, ferente Domino ſatisfactionem; adeo ut in maxillis noſtris juges lacrime perſeverent, donec convertat Dominus captivitatem Syon, et conſoletur merentes in Jeruſalem, et clementie reducat oculos in deſolatos Jeruſalem. Interim, ut quod actum eſt currente ſtilo proſequamur, ſublimationis veſtre quis fructus extiterit audiamus. A pio rege noſtro ſuſcepto regni gubernaculo, ad illum uſque diem eccleſia quidem ſancta altâ pace floruerat, excepto quod, ut diximus, ad inſtaurandum in Toloſam exercitum manus veſtras nimis in ſe graves agnoverat. De cetero, ſub bono principe cuncta gaudebant, jocundiſſime letabantur univerſa; regnum ſacerdotio devotum ſanctè preſtabat obſequium, et ſacerdotio firmiſſimè fulciebatur ad bonum omne regis imperium. Exercebantur in eccleſiâ gladii duo, devoto Domino Jeſu famulantes obſequio. Nec ſibi ſtabant ex adverſo, nec tendentes in contrario repugnabant alterutro. Unus erat populus, et, ut ſcriptum eſt, unius labii, ſtudens peccata perſequi, gaudens vitia fortiter eradicari. Hec regni fuit et eccleſie pax; alternâ ſic gratiâ fovebantur, et unanimi voluntate jungebantur. In veſtrâ vero promotione gratiarum ſperabamus et expectabamus augmenta: et ecce, peccatis exigentibus, illico turbata ſunt univerſa. Virtus eſt, peccato, cum exſurgit, occurrere, mentiſque ſiniſtros fetus ad petram, que Chriſtus eſt, ſtatim, cum naſcuntur, allidere. Oportebat itaque veſtram providiſſe prudentiam, ne diſ-

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ſenſiones inter regnum et vos paululum in immenſum excreſcerent, ne de ſcintilla tenui in multorum perniciem tantus ignis exſurgeret. Actum ſecus eſt, et ob cauſas, quas enumerare longum eſt, diſſenſiones adaucte ſunt, inflammata eſt ira, et odium fortiter obfirmatum. Hec cauſa fuit, hinc emerſit occaſio, cur ad requirendas dignitates regias, et in commune commemorandas, ſuum dominus rex animum applicaverit et conſilium. Quarum obſervatio cum a nobis, et a ſuffraganeis eccleſie veſtre exigeretur epiſcopis, eo quod in quibuſdam earum eccleſie Dei videbatur libertas opprimi, aſſenſum dare recuſavimus, preterquam his que ſalvo honore Dei et ordine noſtro poterant obſervari. Exigebat inſtanter dominus noſter rex obſervationes earum abſolute ſibi a nobis repromitti. Sed quod libertati repugnabat eccleſie et domini pape fidelitati, a nobis nequaquam potuit optineri. Ob cauſam hanc coacti ſunt cetus, et convocata concilia. Quid meminiſſe opus eſt que ſunt acta Londoniis, que denuo Oxenefordie? que geſta ſunt Clarendonie ad memoriam revocemus. Ubi continuato triduo id ſolum actum eſt, ut obſervandarum regni conſuetudinum et dignitatum a nobis fieret abſoluta promiſſio. Ibi quippe vobiſcum ſtetimus quem in Domini ſpiritu ſtare fortiter eſtimabamus. Stetimus quidem immobiles, ſtetimus imperterriti, ſtetimus in fortunarum diſpendium, in cruciatum corporum, in ſubeundum exilium, ſubeundum quoque, ſi ſic Dominus permiſiſſet, et gladium. Quis unquam pater filios in ſuâ plus habuit confeſſione concordes? quis unquam plus unanimes? Incluſi eramus omnes conclavi uno. Die vero tertio, cum jam regni principes et omnes quidem nobiles in ſummas coleras exarſiſſent, facto quidem fremitu et ſtrepitu, conclave quo ſedebamus ingreſſi, rejectis palliis, exertiſque brachiis, nos taliter allocuti ſunt, "Attendite, qui regni ſtatuta contemnitis, qui regis juſſa non ſuſcipitis. Non noſtre ſunt manus iſte quas cernitis, non noſtra brachia, non hec demum corpora noſtra: Verum domini noſtri regis hec ſunt, ad omnem ejus nutum, ad omnem ejus ulciſcendam injuriam, ad omnem ejus voluntatem, quecunque fuerit, jam nunc applicari promptiſſima. Ipſius mandatum, quodcunque fuerit, ex ſola nobis voluntate ejus erit juſtiſſimum. Revocate conſilium, inclinate animos ad preceptum, ut declinatis, dum fas eſt, quod jam non poterit evitari periculum." Quid ad hec? Quis fugit? Quis terga vertit? Quis animo fractus eſt? Veſtra nobis exprobratur epiſtola, quod in die belli converſi ſumus, quod ex adverſo non aſcendimus, quod nos murum pro domo Domini non oppoſuimus. Judicet Dominus inter nos: Ipſe judicet ob quem ſtetimus, ob quem ad minas principum flecti nequivimus: Judicet ipſe quis fugerit, quis in bello deſertor extiterit. Stetit procul dubio vir nobilis, et ſpiritûs in Domino

mino conſtantiſſimi, Wintonienſis Henricus, Stetit Elienſis Nigellus, Stetit Lincolnienſis Robertus, Cyceſtrenſis Hylarius, Sareſberienſis Jocelinus, Exonienſis Bartholomeus, Ceſtrenſis Ricardus, Wigornienſis Rogerus, Herefordenſis Robertus, Londonienſis Gillebertus. His omnibus percuſſor defuit. Hii itaque, temporalia reputantes ut ſtercora, pro Chriſto et eccleſiâ expoſuerunt ſe et ſua. Dicatur itaque quod verum eſt; fiat ſub ſole quod preſentibus nobis et cernentibus actum eſt. Terga dedit dux militie, ipſe campi ductor aufugit; a fratrum ſuorum collegio ſimul et conſilio dominus Cantuarienſis abſceſſit, et, tractatu ſeorſum habito, ex intervallo reverſus ad nos, in hec verba prorupit. *Eſt domini mei voluntas ut pejerem, et ad preſens ſubeo, et incurro perjurium, ut potero penitentiam acturus in poſterum.* Auditis his, obſtupuimus, et, mutuis herendo conſpectibus, ad lapſum hunc, a ſummo, ut eſtimabamus, virtutis et conſtantie viro, ſuſpirantes ingemuimus. Non eſt apud Dominum Eſt et non; nec ejus ſperabamus ſic moveri poſſe diſcipulum. Languente capite languent cito cetera membra, et ipſius infirmitas ad cetera ſtatim membra dilabitur. Ipſe quod exigebatur annuens, et dignitates regias et antiquas regni conſuetudines, antiquorum memoriâ in commune propoſitas et ſcripto commendatas, de cetero ſe domino noſtro regi fideliter obſervaturum in verbo veritatis abſolute promittens, in vi nobis obedientie precepit, ſponſione ſimili nos obligare. Sopita eſt hoc fine contentio. Sacerdotio ſic eſt pax conciliata cum regno. Deſcendit Iſrael in Egiptum, unde cum multâ gloriâ legitur poſtmodum aſcendiſſe. Nobis quoque ſpes magna reſederat, id quod dominus noſter rex ad tempus ira motus exegerat, ſedato ipſius animo, ad Dei gloriam et ipſius honorem, in bonum denuo eſſe reformandum. Invidit paci tenere pacis ille turbator priſtinus: et qui, procellis enavigatis, ſperabamus tenere tum portum, aquilonis ecce flatibus compellimur in profundum. Recens erat illa in verbo veritatis regi facta promiſſio, vos niſi ab eo impetratâ licentiâ non diſceſſurum a regno. Scriptum eſt, "Verba ſacerdotis comitem ſemper habeant "veritatem". Illud quoque, "Quod quis dicit veritati debet, et quod "promittit fidei". Emenſis tamen diebus paucis, ventis vela commiſiſtis, et egreſſum a regno, rem rege penitus ignorante, procuraſtis. Quo audito, nemo rege plus ſtupuit, nemo plus doluit. Stupuit non eſſe completum quod fuerat a pontifice quaſi juramento promiſſum. Doluit in ſe grave ſciens ſcandalum ſuſcitari, et illeſam hactenus opinionem ſuam ex fugâ hac apud gentes et regna graviſſime laceſſiri. Quid enim veritatis ignari, quid poterant ex his aliud ſuſpicari, quam regem regie pietatis immemorem in tyranni rabiem exarſiſſe, et odio Chriſti miniſtrum ejus a regno ſuo et dominationis ſue finibus expuliſſe. Mallet in carne ſua

manu veſtrâ vulnus graviſſimum excepiſſe, quam hoc fame ſue diſpendium toto orbe Chriſtiano per vos et veſtros incurriſſe. Quid plura? Aquilone vela perflante completa fuiſſet jam navigatio, niſi flatu meliore ceptis Auſter obſtitiſſet. Quo flante proſpere, navis ad litus, unde cepit navigare, perducta eſt. In manus itaque regis cum vos rei deduxiſſet eventus, nunquid iram ſecutus, aut potentiam, in vos aut exceſſit opere, aut eſt quicquam locutus aſpere? Abſit. At benigne ſuſceptum et veneratione quam decuit honoratum remiſit ad propria, et vos in regno manere, commiſſam vobis eccleſiam regere, animi veſtri dilectionem et dulcedinem ſibi rebus ipſis oſtendere, humiliter et benigne ſupplicando commonuit. Vix Auſter detonuerat, et jam Circius fulminabat; motus animorum vix utrimque reſederant, et ecce de novo emerſit unde ferventius ebullirent. Perlatum eſt ad vos mandatum regium, ut cuidam regni nobilium, ſuper predio quod a veſtra vendicabat eccleſia, quod juſtum foret exhiberetis. Qui poſt ſtatutos dies ad regem reverſus aſſeruit, ſe penes vos juſticiam aſſequi nequiviſſe, et ſe id ipſum, juxta regni ſtatuta, coram vobis, ſuo congruoque teſtium juramento, comprobaſſe. Quo regem proſequente diutius, et ſuper exhibendâ ſibi juſticiâ quotidie ſupplicante, domini noſtri regis ad vos eſt emiſſa citatio, ut ſtatuto die ſe veſtra ſublimitas ſibi exhiberet, ut quod ipſo mandante non egerat, eo cognoſcente litemque judicio dirimente compleret. Non eſt a vobis hec admiſſa citatio, *verum vos in hoc ſibi minime pariturum declaravit a vobis ad ipſum delegata reſponſio.* Arbitratus hoc ipſo dominus rex juri ſuo detrahi graviter et poteſtati, eccleſiam regni juſſit ad concilium Norhamtoniam convocari. Convenit populus ut vir unus; et aſſidentibus ſibi quorum id dignitati congruebat et ordini, quod dictum eſt ſuper exſpreto mandato ſuo in querelam adverſus vos, uſus, quâ decuit, modeſtiâ et venuſtate, propoſuit. Porro quod intendit, fratrum veſtrorum non expectato vel expetito conſilio, veſtra in continenti confeſſio confirmavit; adjiciens vos ob id non paruiſſe mandato, quod Johannes ille, qui regis ad vos mandatum pertulerat, in veſtra preſentia, non evangelio, ſed tropario quodam propoſito, juraviſſet. Eſt itaque dictum in commune, cauſam non eam eſſe, ob quam mandatum regium oportuiſſet omiſiſſe: regnique fore conſuetudinem in offenſis hujuſmodi mulctâ pecuniariâ ſuam rem taxante miſericordiâ placari regem. Paruit regie ſublimitas veſtra ſententie, ad plenum cavens ſuper judicati ſolutione. Veſtram tamen non latebat prudentiam decretum illud apoſtolicum, quod in hunc modum expreſſum eſt; " Nullus epiſcopus, neque pro civili, neque pro criminali cauſa, apud quemvis judicem, ſive civilem, ſive militarem, producatur vel exhibeatur." Et illud, " Clericus apud ſecularem judicem, ſi pulſatus

ſatus fuerit, non reſpondeat aut proponat." Et illud Gelaſii pape ad Elpidium epiſcopum, "Quo auſu, qua temeritate reſcribis ad Ravennam te parare proficiſci, cum canones evidenter precipiant, nullum omnino pontificum, niſi nobis ante viſis aut conſultis, ad comitatum debere contendere". Sed hec altiori forte ſcientia et ſpiritu clariore diſcernitis; et quia regem unctio divina ſanctificat, ungitur ei manus in ſanctitatem operum, brachiorum nexus in caſtitatem complexuum, pectus in cordis munditiam, ſcapule in laborum pro Chriſto tolerantiam, criſmate caput infunditur, ut ſecundum Chriſtum, a quo criſma dictum eſt et ejus nomine conſecratum, apto ſemper moderamine ſtudeat ſibi credita diſpenſare, ipſum a ceteris ſecernitis, et judicem, non ſecularem tantumodo, ſed et eccleſiaſticum reputatis. Ad quod roborandum, id fortaſſe proponitis, quod imperiali judicio papa Leo quartus emendare voluit, ſi quid in ſubditos injuſte commiſit, Ludovico Auguſto ſic ſcribens: "Nos ſi incompetenter aliquid egimus, et in ſubditis juſte legis tramitem non conſervavimus, veſtro aut miſſorum veſtrorum cuncta terminentur examine; ne ſit in poſterum quod indiſcretum valeat permanere." Si vobis mens iſta eſt, diſcretioni veſtre quam plurium in hoc conſentit opinio, ut, ob ſacramenti reverentiam, regem eſtiment, non omnes, ſed quas diſtinguunt, eccleſie et perſonarum eccleſie cauſas oportere diſcutere, et regie juriſdictionis examine terminare. Habet enim eccleſia quedam divino tantum jure, quedam, ut teſtantur, humano. Gradus eccleſiaſticos, ordines ſacros, et dignitates hiis coherentes et poteſtates, divino tantum jure ſortitur. Unde ſi baptizat aut conſecrat, ſolvit aut ligat, predicat et informat, hec tantum ſpiritualia ſunt, collata deſuper ab homine in hominem, non hominis dono, ſed divino intus operante ſpiritu, propagata. Hunc ſibi nemo ſumit honorem, ſed qui vocatur a Deo, tanquam Aaron. Affectaverunt hæc Choraſh, Dathan, et Abiran, a Domino non vocati, et inaudita morte perierunt. Inmiſcentes ſe ſacrificiis Jeroboam et Ozias, alter manus ariditate, alter lepra, percuſſi ſunt. Eſt igitur in his omnibus ſacerdos quilibet, ut pater, ut paſtor, omni rege ſuperior: rex, ut filius, ut diſcipulus, longe inferior eſtimatur. Si itaque rex delinquat in Deum, imitando Theodoſium, conciliari ſtudeat opera ſacerdotum. Si ſacerdotes ſe accuſent alterutro, hec ſuo rex non uſurpet juſticio; ſed, ne patrum verenda conſpiciat, incedens retrorſum queque hujuſmodi pallio laudis operiat. Sunt et eccleſie corporalia quedam divino tantum jure poſſeſſa. In his decime numerantur, oblationes, et primitie, quae ſegregando ſibi ſanctificavit dominus, et in uſus ſibi mniiſtrantium eterna lege ſancivit. Que quia divino tantum jure percipit, ad cognoſcendum ſuper his poteſtas ſe regia non extendit. Humano vero jure multa poſſidet, que ſola

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ſibi ſunt hominum donatione conceſſa, non id precipiente Domino, vel legem ſuper hoc ſtatuente, ut jam non Leviticâ ſolum portione ſit limitata, verum donis eximiis et poſſeſſionibus ampliata. Tranſtulerunt ad eam ampla ſua patrimonia reges, tranſtulerunt electi principes, ut jam ſit etiam corporaliter impletum, quod de filiis eccleſie dudum eſt prophetâ vaticinante predictum; "Fortitudinem gentium comedetis, et in gloriâ eorum ſuperbietis." Et illud; "Ut det illis hereditatem gentium. Item Yſaias, "Dilata tentorium tuum; longos fac funiculos tuos; ad dextram et ad levam dilataberis". Vetus quidem habet hiſtoria, in opus illud tabernaculi antiquum illum populum eâ devotione contuliſſe donaria, ut compulſi artifices dicerent Moyſi, Plus offert populus quam neceſſe eſt. Quorum quantacunque devotio, filiis tamen gratie non equatur, quibus ſepenumero ſatis non eſt donare ſingula, niſi ſupererogent univerſa. Eſt vero cuique liberum, cum transfert donando quod ſuum eſt, donationi conditionem quam velit annectere, quantum nec legibus nec bonis conſtat moribus obviare. Hanc itaque donationi regum conditionem annexam eſtimant, hoc conſuetudine tot temporum obtinente curriculis affirmant, ut regibus eccleſie militaria, et annexa prediis alia quedam perſolvant obſequia, et poſſeſſiones ipſas a regibus, perſone ſue principaliter hominio, et fidelitate, preſente evangelio, promiſſâ, recognoſcant. Sic igitur eccleſie geminata poteſtas eſt, ut hinc regi celeſti ſerviat, hinc terreno principi, quod ad eos ſpectat exhibeat. Ejuſque miniſtros efficit poteſtas, hinc a Deo collata, pontifices, hinc a rege ſuſcepta, comites aut barones. Poteſtas hec eſt quâ magnum in palatio obtinet eccleſia principatum, cum in omnibus regni judiciis, preterquam ſi de vite periculo tractetur aut ſanguine, locum habeat ipſa precipuum. Hec regi nos obligant, (ut affirmant) ut ab ipſo citati debeamus aſſiſtere, et ſingulorum cauſas univerſi diſcutere et judicare. Nam qui in his que ad Deum ſunt gradu quodam diſtinguimur, ut ſuperiores quidam, inferiores alii, reputemur et ſimus, nos in hoc pares eſtimant, ut ſi de fundis ad eccleſiam liberalitate regiâ devolutis, inter nos, aut in nos, fuerit oborta contentio, apud regem que ſpectant ad ſingulos univerſorum definiat pronunciatio. Nec mirum ſi patrem teneat à filio lata ſententia, et cum hominio fidelitas reverenter exhibita. Cum ſit igitur à Deo gemina poteſtas, hinc ſacerdotalis, hinc regia; utramque ſecundum quid preeſſe alteri, et ab alterâ ſecundum quid poſſe judicari, patrum auctoritate confirmant, ut ſit regum et preſulum viciſſitudo hec, quâ ſe viciſſim judicant et judicantur a ſe, forte quoddam caritatis vinculum, reverentie debitum, et utrique neceſſitudo quedam conſervande pacis ad alterum. Hec et his altiora conſiderans, regem, quaſi precellentem, prout monet

apoſtolus, honoraſtis, et ejus parendo ſententie rectè judicem agnoviſtis, ſibique ſervando quod ſuum eſt, ipſum, in his que ad Deum ſunt, veſtre parere ſublimitati prudenter et providè monuiſtis. Omni humane creature propter Deum ſancta ſe ſubmittat humilitas, et quo ſe dejicit inferius, eo, juxta verbum Domini, meretur altius et glorioſius exaltari. Atque in his utinam humilitatis finibus res ipſa tota reſediſſet, et, cum à vobis quedam debita repoſceret Dominus noſter rex, cum de ſummâ pecunie, quam in manu veſtra ex caducis quibuſdam excreviſſe memorabat, quod jus dictaret id ſibi ſolum peteret exhiberi, ad declinandum regalis curie judicium tunc ſe veſter minimè zelus erexiſſet. Nam quid poterat inferre periculi danda ſuper hac petitione ſententia? Ad regimen eccleſie vos a curiâ transferri voluit, et ab ipſius nexibus hoc ipſo vos, ut plures opinantur, abſolvit. Quod ſi ad debita minimè referendum eſt, ut evectus loco ſic abſolvatur a debito, poterat negotium per exceptionem in rem verſum plurimum expediri; et, ſi quid compoto nequiviſſet includi, iratè magis repetenti ſua quam avidè, de reliquo poterat ſatiſdari; et civilis hec cauſa, abſque hoc rerum turbine, pace poterat honeſtiſſimâ terminari. Sed inauditum dicitis, ut in regis curiâ Cantuarienſis unquam compelleretur ad talia. Et id dixeritis inauditum, officialem curie repentino tranſitu ad illam eccleſiam unquam hactenus ſic aſcendiſſe, ut hodie quis curiam, cras diſpenſaret eccleſiam, ab avibus et canibus ceteriſque curie jocundis uſibus cito quis aſtaret altaribus, et epiſcopis totius regni ſpiritualia miniſtraret et ſacerdotibus. Uſus igitur in diverſa tendente conſilio, domum regiam, crucem geſtans in manibus, introiſtis, et execrande cujuſdam malitie ſuſpectum regem omnibus ilico reddidiſtis. At ejus innocentiam ſummis efferenda preconiis patientia declaravit. Illationem crucis adverſum ſe etſi moleſte tulerit, fines tamen regie modeſtie non exceſſit. Non irâ motus efferbuit, non verbo malignatus aut opere, cauſam, quam ſua repetens intenderat, fine ſtuduit juſticie debito terminare. At, declinando judicium, ad dominum papam appellaſtis, et, ſicut in ingreſſu, ſic in egreſſu veſtro, ſummam regis manſuetudinem et tolerantiam vobis obſervate pacis indiciis agnoviſtis. Nam ut, in Abſalonem prodeunte exercitu, paterna pietas exclamavit: "Servate mihi puerum Abſalon", ſic, ejus mandato, voce ſtatim preconariâ cunctis innotuit, ut ſiquis vobis aut veſtris cuiquam moleſtus exiſteret ultore gladio deperiret. Addidiſtis ad hæc, ut, tanquam vitæ veſtræ vel ſanguini machinarentur inſidias, fugâ nocte initâ, mutato habitu, poſt latitationem aliquantulam, a regno clam tranſmeaſtis, et nemine proſequente, nullo vos expellente, extra dominationis ſue loca, in regno vobis altero ad tempus ſedem elegiſtis. Inde navem diſponitis gubernare,

quam

quam in fluctibus et tempeſtate, ſubducto remige, reliquiſtis. Hinc nos veſtra jubet autoritas, et hortatur, ut convertamur ad vos et ſalvi ſimus, ut veſtris inherendo veſtigiis pro Chriſto mortem ſubeamus, et pro liberandâ ipſius eccleſiâ animas ponere non metuamus. Et utique ſi attendamus quanta nobis promittantur in celis, debeant animo vileſcere quecunque poſſidentur in terris. Nam nec lingua dicere nec intellectus capere valet illa ſuperne civitatis quanta ſint gaudia; angelorum choris intereſſe, cum beatiſſimis ſpiritibus glorie conditoris aſſiſtere, preſentem Dei vultum cernère, nullo metu mortis affici, incorruptionis ſue munere perpetuo gloriari! Paſſiones hujus temporis minime condigne ſunt ad futuram gloriam que revelabitur in ſanctis; et quod modo leve eſt et momentaneum tribulationis ſupra omnem modum eterne glorie pondus operabitur in electis. Hec noſtris jamdiu ſenſibus inſederunt, noſtra jamdiu ſtudia hec poſt ſe promiſſa traxerunt. Caput utinam, quod mihi ſcapulis inſidet, lictoris gladius projeciſſet in medium, dum tamen legitimo Deoque placito certamine decertaſſem. *At martyrem non pena facit, ſed cauſa.* Dura ſanctè perpeti, gloria eſt: improbè pertinaciter, ignominia. Pro Chriſto ſubire gladium, conſummata laus eſt et victoria; hunc in ſe temerè provocare, latè patens inſania. Et ſi veſtra, pater, non ſolum dicta, verum facta penſemus, in mortem nec temerè nec leviter impingemus. Nam genu Clarendone curvando, fugam Norhamtone ineundo, mutato ad tempus habitu deliteſcendo, a regni finibus clam emigrando, quid actum eſt? quid hæc agendo procuraſtis, niſi quod mortem, quam nemo dignabatur inferre, tam ſolicitè declinaſtis. Nos igitur ad mortem quâ fronte pater invitaſtis, quam vos et formidaſſe et fugiſſe indiciis tam manifeſtis toti mundo luce clarius oſtendiſtis? Que vos ſuadet caritas nobis onus imponere quod abjeciſtis? Gladius nobis imminet quem fugiſtis, in quem fundum jacere, non dimicare cominus, elegiſtis. Ad ſimilem forte fugam nos invitaſtis. At nobis mare clauſum eſt, et poſt diſceſſum veſtrum naves nobis ſunt omnes et portus inhibiti. Inſule terrarum clauſtra regum fortiſſima ſunt, unde vix evadere vel ſe quis valet expedire. Si nobis pugnandum eſt, de proximo contendemus: ſi cum rege pugna conſeritur, unde percutiemus gladio nos ibi gladius repercutiens inveniet. Unde vulnus infligemus vulnera declinare nequibimus. Et annui veſtri redditus nunquid vobis tanti ſunt, ut fratrum veſtrorum ſanguine vobis hos velitis adquiri? At Judâ reportante pecuniam, hanc Judei reſpuerunt, quam ſanguinis eſſe pretium agnoverunt. Sed aliam nobis cauſam fortaſſe proponitis. —Paululum itaque divertamus, ut mortis nobis ſuadende cauſam plenius

attendamus. Gratias Domino, Nulla penes nos eſt de fide contentio, de ſacramentis nulla, nulla de moribus. Viget recta fides in principe, viget in prelatis, viget in ſubditis. Omnes fidei articulos regni hujus eccleſia ſanè complectitur. A ſummi pontificis obedientiâ preſentis ſchiſmatis inſaniâ nemo dividitur. Eccleſie ſacramenta venerantur omnes et excolunt. Suſcipiunt in ſe, et aliis piè ſanctéque communicant. Quod ad mores, in multis quidem offendimus omnes: Errorem tamen ſuum nullus prædicat aut defendit; verum penitentie remedio ſperat poſſe dilui quod admittit. *Tota igitur in regem eſt et de rege contentio, ob quaſdam conſuetudines, ſuis predeceſſoribus obſervatas, (ut aſſerit) et exhibitas, quas ſibi vult et expetit obſervari.* Super hoc a veſtrâ ſublimitate commonitus non deſiſtit à propoſito, non renunciat iis que formavit antiquitas et longa regni conſuetudo. Hec eſt cauſa cur ad arma decurritis, et in ſanctum caput et nobile gladium librare contenditis. In quo refert plurimum *quod has ipſe non ſtatuit, ſed, ut tota regni teſtatur antiquitas, ſic eas repperit inſtitutas.* Nam difficilius evellitur quod altius radicatur. Heret planta tenacius que ſuas in altum jam diu radices immiſerat; quam ſi quis transferre deſiderat, non viribus evellenda eſt, ne protinus exareſcat. Circumfodienda eſt prius, et humus eſt ejicienda; denudanda radix undique, ut ſic prudens expleat diligentia quod vis commodè non expleret, incompetenter adhibita. A bonis exempla ſumenda ſunt, et, cum tractantur hujuſmodi, ipſorum ſunt opera diligentius attendenda. Predeceſſor veſter ille pater Auguſtinus multa a regno hoc extirpavit enormia, et ipſum regem fide illuminans pravas ab eo conſuetudines, non quidem paucas, eliminavit, non maledictis equidem, ſed benedicendo potius et predicando, exhortando ſalubriter, et potentum animos ad bonum fortiter inclinando. Cremenſis ille Johannes, diebus noſtris, in partes has a ſanctâ Romanâ eccleſiâ directus, regni conſuetudines, in quibus jam ſenuerat, immutavit: quod non maledictis aut minis, ſed doctrinâ ſanâ et exhortationibus ſanctis optinuit; benedicendo ſeminavit, de benedictionibus et meſſem fecit. Hi, ſi ad arma decurriſſent, nihil aut parum profeciſſent. A pio Francorum rege, optatâ diu prole ſibi jam conceſſâ divinitus, nuper illi regno multa ſunt remiſſa gravamina, que firmaverat antiquitas hactenus inconvulſa. Hec, ſuggerente, ut audivimus, eccleſiâ, et monente, non electum principem minis impetente, ſublata ſunt. Que denique, quanteve dignitates, libertates, immunitates, poſſeſſiones, eccleſie Dei, a piis regibus, orbe toto, pietate ſolâ, non maledicti neceſſitate, collata ſint, quis valeat explicare! Utique tempus id volentem explicare deficiet. Hec namque regum eſt laude digna nobilitas: Ab ipſis ſupplex optinet, quod erectus in minas nullis unquam

quam conatibus optineret. Ipſis nummi pretium tam reputatur vile quam exiguum. Quod ſi vi quiſque violenter intenderet, magnos in re modicâ rei ſue defenſores ſpe cito fruſtratus agnoſceret. Hec itaque, non fervore novitio, ſed maturo fuerant attendenda conſilio. Erant fratrum veſtrorum et aliorum plurium in his exquirenda conſilia, attendenda patrum prudentum opera, cum incommodis eccleſie penſanda commoda, et hec tum demum danda forte ſententia, cum jam foret ſpes nulla ſupereſſe remedia. Que, profecto, cum datur juxta ſacrorum formam canonum, attendendum eſt in quem detur, cur detur, quomodo detur, an expediat eccleſie quod detur, et obfuturum ſibi ſi non detur. Is vero quem impetitis, (ut nota vobis referamus) nunquid non ipſe eſt quem dulciſſima pignora, nobiliſſima conjux et honeſta, ſubjecta ſibi regna quam plurima, amicorum cetus et ſuis obſequentium nutibus tot populorum agmina, mundi queque pretioſa, vix detinent, vix blandiendo perſuadent, quin, ſpretis omnibus, poſt crucem ſuam portantem Dominum Jeſum nudus exeat, et paupertatem contemplando quam ſubiit, id facto ſtudeat implere quod docuit ipſe dicens, " Qui non bajulat crucem ſuam et venit poſt me, non eſt me dignus". Hec mentis ejus obſtinatio eſt, hec maledictis opprimenda crudelitas, hec in eccleſiâ Dei toto orbe declamata malignitas? In hunc ſi maledicta congeſſeritis, partem ſui nobiliſſimam ſuis ledi jaculis eccleſia recte condolebit. Ipſo namque vulnerato, leſam ſe, non filiorum paucitas, ſed populorum ampla numeroſitas, ingemiſcet. In hoc vero ſacra ſic docet auctoritas. " In ejuſmodi cauſis, ubi per graves diſſentionum ſciſſuras non hujus aut illius eſt hominis periculum, ſed populorum ſtrages jacent, detrahendum eſt aliquid ſeveritati, ut majoribus malis ſanandis caritas ſincera ſubveniat": Et iterum, " Non poteſt eſſe ſalubris a multis correctio, niſi cum ille corripitur qui non habet ſociam multitudinem." Medico namque quis aſcribit induſtrie, ut vulnus unum ſanet, aliud longe majus, longe periculoſius, infligat. Diſcretioni quis attribuat, ob quedam, que poterunt et levius et expeditius optineri, eccleſiam ſic deſerere, in principem exurgere, et eccleſie totius regni concuſſâ pace, animarum in ſubditis corporumque pericula non curare? Auguſtinus ceſſit: Ambroſius eccleſiam deſerere non approbavit. Nam quid a bono principe veſtra pater prudentia poterat non ſperare, quem divino compunctum ſpiritu in Chriſtum adeo noverat anhelare? Ille conſuetudines, temporalis commodi nil prorſus ſibi conferentes quanti ſibi ſunt, cui ipſa mundi gloria, quantamcunque ſe offerat, jam tota fere viluit, et a cordis ſui deſiderio tam procul eſt, ut Domino loquens ſepius dicat quod ſcriptum eſt, *Inſigne mei capitis odi, Domine, tu ſcis* *. Nunquid non hic fovendus

* This alludes to the Vow the King had made never again to wear his Crown.

erat,

erat, et in ipſo nidificanti columbe ſancte dimittendus, donec plenè formatus in ipſo Chriſtus occulta ejus in lucem traheret, produceret, et libertates eccleſie, non tantum has de quibus agitur, ſed et longe propenſiores, ipſe, quaſi manu propriâ, diſtribuerit? In his quidem quod ſcimus loquimur, quod novimus id confidenter afferimus. Conſuetudines, in quas plus candeſcitis, dominus noſter rex jam pridem penitus expreviſſet, ſi non hoc propoſitum duo graviter impediſſent: Unum, quod ſibi timet dedecori, à patribus ad ſe devoluto regno, diebus ſuis, ſubtrahi quicquam vel diminui: Alterum, ſi quid remittat ob Dominum, erubeſcit, ut hoc ſibi vi reputetur extortum. Primum tamen illud jam ſanctitatis pede calcaverat, et ipſum in hoc Dei timor, innata bonitas, domini pape ſancta monitio, multorumque in hoc ſupplicatio continuata produxerant, ut, ob ejus reverentiam, per quem ultrà omnes ſuos patres longe magnificatus eſt, eccleſiam Dei convocare et regni conſuetudines, que gravamen ſibi noſcerentur inferre, multâ devotione ſpiritûs, immutare vellet ultroneus et corrigere Et, ſi penes vos cepta perſeveraſſet humilitas, eccleſiam Dei in regno exhilaraſſet jam diffuſa latè jocunditas. Nam finem, in quem tenditis, vicerat jam ſupplicatio, cum male totum impedivit a vobis orta recens turbatio. Nam, cum ſuis nondum Britannia titulis acceſſiſſet, et levaret in eum uſque tunc indomita gens illa calcaneum, cum produceret in turbatores pacis exercitum, terribiles in illum literas, devotionem patris, modeſtiam pontificis, minimè redolentes, emiſiſtis; et quod ſummi pontificis admonitio, multorumque elaboraverat ſupplex et intenta devotio, ſuſpirando minas ilico ſuſtuliſtis, et tam regem, quam regnum, in ſcandalum cunctis retro actis ferè gravius impuliſtis.

Avertat Deus finem, quem, negocio ſic procedente, metuimus; qui ne noſtris erumpat temporibus, ob honorem Dei et ſancte eccleſie reverentiam, ob veſtrum (ſi placet) commodum, ob pacis commune bonum, ob minuenda ſcandala, et que turbata ſunt ad pacem, juvante Domino, revocanda, ad dominum papam appellavimus, ut veſtri curſûs impetum vos in regem pronè rapientis et regnum, ad tempus ſaltem cohibeamus. Quâ in re bonum eſt, ut intra fines modeſtie veſter ſe velit zelus cohibere, ne, ut regum jura ſubvertere, debitam quoque ſic domino pape reverentiam, appellationes ad ipſum interpoſitas non admittendo, nimis e ſublimi ſtudeat exinanire. Quod ſi placet advertere, ad Zacheum non divertiſſe Dominum, niſi cum de ſicomoro jam deſcendiſſet, deſcenderis forſitan, et quem minis exaſperaſtis verbis aliquando pacificis mitigare ſtuderetis, non ſolum exigendo, ſed et ſatisfactionem humilem, etſi forte injuriam paſſus, offerendo. Puerum apoſtolis propoſuit exemplo Dominus,

Dominus, qui leſus non iraſcitur, injurie cito non meminit, nec quicquam malicioſè molitur, dum magna non affectat, ſibi totum hoc innocentis vite remedio viteque jocunditate pleniſſimâ recompenſat. Singulare itaque virtutis exemplar ipſe eſt, qui ſe crucifigentes abſolvit, qui latâ caritate perſequentes et odientes amari precipit, et, ſi peccet frater in nos, veniam non ſolum ſepties, ſed et ſeptuagies ſepties, imperat impertiri. Iſta quid non poſſet humilitas? apud dominum noſtrum regem quid non optineret viarum iſta perfectio? Callis iſte rectus eſt, ad pacem recte perducens, quem pater cum intraveritis, pacem ilico apprehendetis, et diſperſis triſtitie nebulis, cuncta pace, gaudio cuncta replebitis, et a rege piiſſimo dominoque noſtro kariſſimo, non ſolum que ad preſens petitis, ſed et longe majora his, Domini ſpiritu cor ejus accendente, et in amorem ſuum ſemper dilatante, feliciter optinere poteritis. *

N° IV.

Epiſt. cxxvi. *Lib.* i. *Thomæ Cantuarienſi Archi-epiſcopo Clerus Angliæ.*

This refers to p.426, vol.II.

Venerabili Patri et Domino Thomæ, Dei gratia, Cantuarienſi Archi-epiſcopo, ſuffraganei ejuſdem eccleſiæ Epiſcopi, et Perſonæ per eorundem Diæceſes locis variis conſtitutæ, debitam ſubjectionem et obedientiam.

QUÆ veſtro, Pater, in longinqua diſceſſu, inopinatâ rei ipſius novitate turbata ſunt, veſtrâ ſperabamus humilitate et prudentiâ in pacis priſtinæ ſerenitatem, cooperante Dei gratiâ, revocari. Erat quidem nobis ſolatio, quod poſt diſceſſum veſtrum, ad omnes ilico famâ divulgante pervenit, vos tranſmarinis agentem nil altum ſapere, vos in Dominum noſtrum Regem aut Regnum ejus nullâ machinatione inſurgere, ſed ſponte ſuſceptum paupertatis onus cum modeſtia ſuſtinere; lectioni et orationi inſiſtere, præteritorumque jacturam temporum jejuniis, vigiliis, lacrymiſque redimere, et ſpiritualibus occupatum ſtudiis ad perfectionis apicem beatis virtutum incrementis adſcendere. Ad pacis bona reformanda vos ſtudiis hujuſmodi gaudebamus inſiſtere, ex quibus ſpes erat vos in cor Domini noſtri Regis hanc poſſe gratiam deſuper

* The foregoing Letter is here miſplaced, it's proper place being after Epiſt. cviii. l. 1. E. Codice Vaticano, to which it is an anſwer. The accents denoting the Ablative Caſe are not in the Manuſcript, but are added here to help the Reader, as there is ſome obſcurity in the ſtyle of the letter, and from the old ſpelling of the Manuſcript. The following letters are taken from the printed Bruſſels Edition of Becket's Letters after the Vatican Manuſcript.

evocare, ut vobis iram Regiâ pietate remitteret, et illatas in diſceſſu et ex diſceſſu veſtro injurias ad cor de cætero non revocaret. Erat Amicis veſtris et Benevolis ad ipſum aliquis, dum hæc de vobis audirentur, acceſſus, et ob conciliandam vobis gratiam ſupplicantes benignè quandoque ſuſtinuit. Jam verò quorundam relatione didicimus, quod ad memoriam anxiè revocamus, vos ſcilicet in eum comminatorium emiſiſſe, quo ſalutationem omittitis, quo non ad obtentum gratiæ conſilium preceſve porrigitis, quo non amicum quid ſentitis aut ſcribitis, ſed intentatis minis interdictum aut præciſionis elogium in eum jam dicendum fore multâ ſeveritate proponitis. Quod ſi quàm durè dictum eſt, tam fuerit ſeverè completum, quæ turbata ſunt non jam ſperamus ad pacem redigi, ſed in perenne quoddam odium et inexorabile pertimeſcimus inflammari. Rerum verò finem prudentia ſancta conſiderat, dans operam ſollicitè, ut quod prudenter inchoat, bono quoque fine concludat. Advertat itaque, ſi placet, diſcretio veſtra, quò tendat, an conatibus hujuſmodi queat finem obtinere, quem optat. Nos quidem his auſis à ſpe magna cecidimus, et qui pacis obtinendæ ſpem quandoque concepimus, ab ipſis jam ſpei liminibus gravi quâdam deſperatione repellimur. Et dum velut extracto gladio pugna conſeritur, pro vobis ſupplicandi locus utique non invenitur. Unde Patri ſcribimus ex charitate conſilium, ne labores laboribus, injurias ſuperaddat injuriis, ſed, omiſſis minis, patientiæ et humilitati inſerviat, cauſam ſuam divinæ Clementiæ, Dominique ſui gratiæ miſericordi committat; et ſic agendo carbones ignis in multorum capita coacervet et congerat. Accenderetur hoc modo charitas, et quod minæ non poterant, inſpirante Domino, bonorumque ſuadente conſilio, ſola fortaſſe pietas obtineret. Bonum erat de paupertate voluntariâ glorioſè laudari, quam de beneficii ingratitudine ab omnibus in commune notari. Inſedit altè cunctorum mentibus, quam benignus vobis Dominus noſter Rex exſtiterit, in quam vos gloriam ab exili provexerit, et in familiarem gratiam tam latâ vos mente ſuſceperit, ut Dominationis ſua loca, quæ a Boreali oceano ad Pyrenæum uſque porrecta ſunt, Poteſtati veſtræ cuncta ſubjecerit, ut in his ſolùm hos beatos reputaret opinio, qui in veſtris poterant oculis complacere. Et, ne veſtram gloriam mobilitas poſſet mundana concutere, in his quæ Dei ſunt voluit immobiliter radicare. Et diſſuadente matre ſuâ, Regno reclamante, Eccleſiâ Dei, quoad licuit, ſuſpirante et ingemiſcente, vos in eam, quâ præeſtis, Dignitatem, modis omnibus ſtuduit ſublimare, ſperans ſe de cætero regnare feliciter, et ope veſtrâ et conſilio, ſummâ ſecuritate gaudere. Si ergo ſecurim accipit, unde ſecuritatem ſperabat, quæ de vobis erit in cunctorum ore narratio? Quæ retributionis hactenus inauditæ rememoratio? Parcatis ergo, ſi placet,

cet, famæ veſtræ, parcatis et gloriæ: Et humilitate dominum, filiumque veſtrum charitate vincere ſtudeatis. Ad quod ſi noſtra vos monita movere nequeunt, debet ſaltem ſummi pontificis, ſanctæque eccleſiæ Romana dilectio et fidelitas inclinare. Vobis enim ſuaderi debet è facili, ne quid attentare velitis, quod laboranti jamdiu matri veſtræ labores augeat, quovè multorum inobedientiam deploranti in eorum qui obediunt amiſſione dolor accreſcat. Quid enim ſi veſtrâ, quòd abſit, exacerbatione et operâ Dominus noſter, quem, largiente Domino, populi ſequuntur et regna, à Domino Papa receſſerit, ipſumque ſibi fortaſſis adverſùm vos ſolatia denegantem ſequi de cætero declinaverit? Ipſum namque, in hoc, quæ ſupplicationes, quæ dona, quot, quantave promiſſa ſollicitant? In petrâ tamen firmus huc uſque perſtitit, et totum quod mundus offerre poteſt victor altâ mente calcavit. Unum nobis timori eſt, ut quem oblatæ divitiæ, et totum quod in hominum gloriâ pretioſum eſt, flectere nequiverunt, animi ſui valeat indignatio ſola ſubvertere. Quod ſi per vos acciderit, in threnos totus ire poteritis, et lacrymarum fontem oculis veſtris de cætero negare nullâ quidem ratione poteritis. Revocetis itaque, ſi placet Sublimitati veſtræ, conſilium, Domino quidem Papæ, ſanctæque Romanæ eccleſiæ, vobiſque, ſi placet advertere, modis omnibus, ſi proceſſerit, obfuturum. Sed qui penes vos alta ſapiunt vos hâc fortè viâ progredi non permittunt. Hortantur experiri quis ſitis, in Dominum Regem, et omnia quæ ſua ſunt, poteſtatem exercere quâ præeſtis. Quæ nimirum poteſtas peccanti timenda eſt, ſatisfacere nolenti formidanda. Dominum verò Regem non quidem non peccaſſe dicimus, ſed ſemper Domino paratum ſatisfacere confidenter dicimus et prædicamus. Rex à Domino conſtitutus paci providet per omnia ſubditorum; et, ut hanc conſervet eccleſiis et commiſſis ſibi populis, dignitates Regibus ante ſe debitas et exhibitas ſibi vult ac exigit exhiberi. In quo ſi inter ipſum et vos aliqua eſt oborta contentio, à ſummo ſuper hoc pontifice, paternâ gratiâ, per venerabiles fratres noſtros Londonienſem et Herefordenſem epiſcopos conventus et commonitus, non in cœlum os ſuum poſuit, ſed de omnibus, in quibus vel eccleſia, vel eccleſiaſtica quæcumque perſona, ſe gravatam oſtenderet, ſe non alienum quærere, ſed eccleſiæ regni ſui pariturum judicio, humiliter et manſuetè reſpondit. Quod quidem et factis implere paratus eſt, et dulce reputat obſequium, ut corrigat, ſi quid offendat in Deum. Nec ſolùm ſatisfacere, ſed etiam, ſi jus exigat, in hoc ſatiſdare paratus eſt. Igitur et ſatisfacere volentem, eccleſiæque ſe judicio, in his quæ ſunt eccleſiæ, nec in modico ſubtrahentem, colla Chriſti jugo ſubdentem, quo jure, quâ lege, quovè canone aut interdicto gravabitis, aut ſecuri, quod abſit, Evangelicâ præcidetis?

Non impetu quidem ferri, ſed judicio prudenter regi, laudabile eſt. Unde noſtrûm omnium una eſt in commune petitio, ne conſilio præcipiti mactare pergatis et perdere, ſed commiſſis ovibus, ut vitam, ut pacem, ut ſecuritatem habeant, paternâ ſtudeatis gratiâ providere.

Movet quidem omnes nos, quod in patrem noſtrum, Dominum Sareſberienſem epiſcopum, et decanum ejuſdem, præpoſterè, ut quidam exiſtimant, nuper actum audivimus: in quos ſuſpenſionis aut damnationis pœnam, ante motam de culpâ controverſiam, calorem, ut videtur, iracundiæ, pluſquàm juſtitiæ ſecutus tramitem, intorſiſtis. Ordo judiciorum novus hic eſt, huc-uſque legibus et canonibus, ut ſperabamus, incognitus, damnare primùm, et de culpâ poſtremò cognoſcere. Quem ne in Dominum noſtrum Regem et regnum ejus, ne in nos et commiſſas nobis eccleſias et parochias, in Domini Papæ damnum, ſanctæque Romanæ Eccleſiæ dedecus et detrimentum, noſtræque confuſionis augmentum non modicum, exercere tentetis et extendere, remedium vobis appellationis opponimus. Et qui contra metum gravaminum in facie eccleſiæ vivâ jamdudum voce ad Dominum Papam appellavimus, iterato jam nunc ad ipſum ſcripto etiam appellamus, et appellationi terminum diem adſcenſionis Dominicæ deſignamus, quantâ quidem poſſumus devotione ſupplicantes, ut, inito ſalubriori conſilio, veſtris ac noſtris laboribus expenſiſque parcatis, cauſamque veſtram in hoc, ut remedium habere queat, ponere ſtudeatis. Valere vos optamus in Domino, Pater.

N° V.

Epiſt. CXXVII. *Lib.* I. *Thomas Cantuarienſ. Archi-epiſcop. Univerſo Clero Angliæ.* *

Thomas Dei gratiâ Cantuarienſis eccleſiæ miniſter humilis venerabilibus Fratribus ſuis, univerſis Cantiæ Provinciæ Dei gratiâ Epiſcopis, ſi tamen univerſi ſcribunt, ſalutem, et id agere quod nondum agunt.

This Letter refers to p. 426, 427, of the Hiſtory.

FRATERNITATIS veſtræ ſcriptum, quod tamen de prudentiæ veſtræ communi conſilio non facilè credimus emanaſſe, nuper exinſperato ſuſcepimus. Cujus continentia plus videtur habere mordacitatis quàm ſolatii: Et utinam magis eſſet emiſſum de pietatis ſtudio, de charitatis affectu, quàm de obedientiâ voluntatis. Charitas enim non quærit quæ ſua ſunt, ſed quæ Jeſu-Chriſti. Erat quippe de jure officii, ſi veritatem habet Evangelium, quod quidem habet, ſi rectè agitis ejus

* This Title is wrong, not being agreeable to the ſuperſcription which follows: but it ſtands ſo in the printed Edition of Becket's Letters, and likewiſe in the Cottonian Manuſcript in the Britiſh Muſeum.

officium,

officium, ſi fideliter ejus negotium geritis cujus repreſentatis figuram, magis eum timere qui poteſt animam et corpus mittere in gehennam, quàm qui poteſt corpus occidere ; magis Deo obedire quàm hominibus, Patri quàm Domino ; ejus exemplo, qui factus eſt Patri obediens uſque ad mortem. Mortuus itaque eſt ipſe pro nobis, nobis relinquens exemplum, ut ſequamur ejus veſtigia. Commoriamur ergo et nos ei, ponamus animas noſtras pro liberandâ eccleſiâ à jugo ſervitutis, et oppreſſione tribulantis, quam ipſe fundavit, cujus comparavit libertatem ſanguine proprio ; ne, ſi ſecùs egerimus, merito comprehendat nos illud Evangelicum, " Qui amat animam ſuam plus quàm me, non eſt me dignus." Optimè noſſe debueratis, quoniam, ſi juſtum eſt quod præcipit imperator, ejus debetis exequi voluntatem ; ſi verò contrarium, reſpondere, " Quoniam oportet nos magis obedire Deo, quam hominibus." Unum vobis dico, ut ſalvâ pace veſtrâ loquar, multo tempore ſilui, expectans ſi fortè inſpiraret Dominus vobis, ut reſumeretis vires, qui converſi eſtis retrorſum in die belli : Si fortè ſaltem aliquis ex omnibus vobis adſcenderet ex adverſo, opponeret ſe murum pro domo Iſrahël, ſimularet ſaltem inire certamen contra eos, qui non ceſſant quotidie exprobrare agmini Domini. Expectavi : non eſt qui adſcendat : Suſtinui : non eſt qui ſe opponat : Silui : non eſt qui loquatur : Diſſimulavi ego, non eſt qui vel ſimulatione certet. Repoſita eſt mihi de reliquo querelæ actio, ut meritò clamare habeam ; " Exurge, Deus, judica cauſam meam." Vindica ſanguinem eccleſiæ, quæ eviſcerata eſt, quæ facta eſt oppreſſione exanimis. Superbia enim eorum qui oderunt ejus libertatem adſcendit ſemper, nec eſt de cætero qui faciat bonum.

Utinam, Fratres dilectiſſimi, is eſſet vobis affectus in defenſionem libertatis eccleſiæ, qui paret et propinatur nobis in ejus confuſionem, literis veſtris, ut credimus, minùs legitimè appellatoriis. Verùm fundata eſt ipſa ſupra firmam petram, nec eſt qui eam poſſit evellere, etſi concutere. Ut quid ergo quæritis me confundere ? Immò vos ipſos in me ; immo et me vobiſcum ; Hominem qui ſuſcepi in me periculum, ſuſtinui tot opprobria, toleravi tot injurias, expertus ſum etiam proſcriptionem pro omnibus vobis. Expediebat quidem unum affligi pro eccleſiâ iſtâ ; ut vel ſic excutiatur à ſervitute. Diſcutite mente ſimplici cauſam iſtam, examinate negotium, diligenter attendite quis ejus debeat eſſe finis ; ut, deductâ majeſtate imperii, poſtpoſitâ penitus perſonarum acceptione, quarum Deus acceptor non eſt, faciat ipſe vobis intelligere, quid eſt quod egeritis, quidque quod intenditis agere. Auferat ipſe Deus velamen de cordibus veſtris, ut cognoſcatis quid agere debeatis. Dicat

ex omnibus vobis qui noverit, ſi unquam poſt meam promotionem alicujus veſtrûm tuli bovem aut aſinum, ſi alicujus pecuniam, ſi alicujus cauſſam iniquè judicavi, ſi alicujus veſtrûm diſpendio comparavi mihi compendium: Reddo quadruplum. Si verò non eſt quod offenderim, ut quid me ſolum derelinquitis in cauſſâ Dei? Quare vos ipſos vobis ipſis opponere curatis in causâ iſtâ, quâ nulla ſpecialior eſt eccleſiæ? Nolite, patres, nolite vos ipſos et eccleſiam Dei, quantum in vobis eſt, confundere, ſed convertimini ad me et ſalvi eritis. Dominus enim dicit, "Nolo mortem peccatoris, quantùm ut convertatur et vivat." State mecum viriliter in prælio, apprehendite arma et ſcutum, et exurgite mihi in adjutorium. Accingimini gladio verbi Dei potentiſſimi, ut ſimul omnes fortius et validè valeamus unà reſiſtere, pro officii noſtri debito, adverſùm malignantes, adverſum operantes iniquitatem, adverſum eos qui quærunt tollere animam eccleſiæ, quæ eſt libertas, ſine quâ nec viget eccleſia, nec valet; adverſùm eos qui quærunt hæreditate ſanctuarium Dei poſſidere.

Feſtinemus ergo ſimul omnes id agere, ne ira Dei deſcendat ſuper nos, tamquàm ſuper negligentes paſtores et deſides; ne reputemur canes muti, non valentes latrare; ne exprobretur nobis a tranſeuntibus, "A ſenioribus Babylonis egreſſa eſt iniquitas." Reverà ſi me audieritis, ſcitote quoniam Dominus erit vobiſcum, et cum omnibus vobis in cunctis viis veſtris ad faciendam pacem et defendendam eccleſiæ libertatem. Alioquin judicet Deus inter me et vos, et eccleſiæ confuſionem requirat de manibus veſtris. Quoniam, velit, nolit mundus, neceſſe eſt ipſam ſtare firmiter in verbo Domini, in quo fundata eſt, donec veniat hora ejus, ut tranſeat de hoc mundo ad Patrem. Judicabit Deus de eo, quod reliquiſtis me ſolum in certamine, nec eſt qui velit mecum aſcendere ad pugnam ex omnibus charis meis: Solum adeò, ut cogitet quilibet veſtrûm vel dicat, "Væ ſoli; quia, ſi ceciderit, non habet ſublevantem ſe." Sed repoſita eſt mihi hæc ſpes mea in ſinu meo, quoniam ſolus non eſt cum quo Dominus eſt, qui, cum ceciderit, non collidetur: ſupponit enim ipſe Dominus manum ſuam.

Ut itaque veniamus ad rem, dicite, patres mei, exciditnè à veſtrâ memoriâ, quid ageretur mecum, et cum eccleſiâ Dei, dum adhuc eſſem in Anglia; quid in exitu meo, quid poſt exitum, quid etiam agatur diebus iſtis; quid maximè apud Northamtonam, *cum iterùm judicaretur Chriſtus in perſonâ meâ ante tribunal Præſidis*; cum arctaretur Cantuarienſis, ob injurias ſibi et eccleſiæ Dei paſſim illatas, et ſine delectu, Romanam audientiam appellare; bona ſua, quæ malè dicimus ſua, cum ſint bona pauperum, patrimonium crucifixi, quæ potiùs ei ſunt commendata quam donata, ſub Dei ponere protectione et eccleſiæ

Romanæ? Quis unquam, etſi aliquando injuſtè proſcriptum divina declaravit clementia, vidit, audivit, Cantuarienſem judicari, condemnari, cogi ad fidejuſſionem in curiâ regis, à ſuis præcipuè ſuffraganeis? Ubi eſt inventa iſta juris vel canonum authoritas adverſa, immò perverſa perverſitas? Ut quid enormitas iſta non parit vobis erubeſcentiam, erubeſcentia non immittit confuſionem, confuſio non elicit pœnitentiam, pœnitentia non excutit ſatisfactionem coram Deo et hominibus? Ob tot quidem et tantas Deo et eccleſiæ ejus illatas injurias, immo mihi propter Deum, quas ſuſtinere non debui ſalvâ conſcientiâ meâ, nec ſine diſcrimine vitæ meæ potui emendare, nec diſſimulare ſine animæ periculo, elegi potiùs declinare ad tempus, ut habitarem ſalubrius in domo Domini quàm in tabernaculis peccatorum, donec completa eſſet iniquitas, revelarentur corda iniquorum, manifeſtarentur cogitationes cordium. Ita tot injuriarum illatio fuit cauſſa apellationis meæ. Hæc fuit occaſio receſſûs mei, quem dicitis inopinatum, qui magis, ſecundùm ea quæ proponebantur adverſùm me, quæ agebantur mecum, ſi veritatem loquimini qui noviſtis, debuiſſet fuiſſe inopinatus, nè impediretur præſcitus. Sed, Domino vertente caſus adverſos in melius, proſpectum eſt Domini noſtri Regis honori et ſuorum, ne quid fieret in me, in ipſius ignominiam et generationis ſuæ. Melius etiam conſultum eſt iis qui ſuſpirabant in necem meam, qui ſitiebant ſanguinem meum, qui adſpirabant ad faſtigium eccleſiæ Cantuarienſis, ut vulgò dicitur et creditur, in noſtram perniciem, utinam minus ambitioſè quàm avidè. Appellavimus et appellati ſumus; rebus eccleſiæ Cantuarienſis, noſtriſque et noſtrorum, ſicut juris exigit ratio, in tuto manentibus, noſtram proſecuti ſumus appellationem. Si, nobis recedentibus, et in diſceſſu noſtro, omnia turbata ſunt, prout dicitis, ſibi imputet qui cauſam dedit, qui hoc procuravit Facientis proculdubio culpa hæc eſt, non recedentis; perſequentis, non declinantis injurias. Damnum enim dediſſe videtur qui cauſam damni dedit. Quid plura? Præſentavimus nos curiæ, noſtras et eccleſiæ expoſuimus injurias, adventûs noſtri cauſam et appellationis expoſuimus: non adfuit qui nobis reſponderet vel in aliquo. Expectavimus, nec venit qui nobis aliquid objiceret. Nulla adverſum nos reportata ſententia, antequam veniretur ad Regem, nobis adhuc de more exſpectantibus in curiâ, ſi fortè nobis aliquid exponeretur: ad noſtros acceſſum eſt officiales; interdictum eſt eis, ne in aliquo ſuper temporalibus nobis obedirent, ne nobis vel noſtris quidquam miniſtraretur ab ipſis citra mandatum regis et conſcientiam; te, frater Londonienſis, cum Richardo de Welceſter et Eboracenſi, ſicut dicitur, dictante ſententiam.

Feſtinatum

Feſtinatum eſt inde ad Dominum Regem. Viderit ipſe, in caput ejus convertatur, qui hoc dedit conſilium. Sine judicio, ſine ratione, poſt appellationem, nobis etiam adhuc in curia morantibus, ſpoliata eſt eccleſia, ſpoliati ſumus et nos cum noſtris, proſcripti et ipſi clerici cum laicis, viri cum mulieribus, mulieres cum infantibus in cunabilis. Addicta ſunt fiſco bona eccleſiæ, patrimonium crucifixi: Pars pecuniæ converſa in uſus regios, pars in tuos, frater Londonienſis, ſi vera ſunt quæ audivimus, et tuæ eccleſiæ. Quam, ſi ita eſt, exigimus à te, præcipientes tibi in virtute obedientiæ, quatenus, intra quadraginta dies poſt iſtarum ſuſceptionem literarum, quidquid inde tuliſti, vel in uſus eccleſiæ tuæ converſum eſt, remotâ omni occaſione et dilatione, infra tempus prænominatum nobis integrum reſtituas. Iniquum enim eſt, et juri valdè contrarium, eccleſiam ditari de alterius eccleſiæ incommodo. Si laudas auctorem, ſcire debes, ſuper rebus eccleſiæ ablatis, eum legitimè non poſſe præſtare auctoritatem qui violentam facit injuriam.

Quo ergo jure perverſo, quo canonum ordine tranſpoſito, poterunt ſe tueri raptores ſacrilegi, bonorum eccleſiaſticorum invaſores, non reſtitutis ablatis eccleſiæ? Opponentnè appellationis obſtaculum? Abſit. Quæ nova, immò quæ juri contraria introducitis in eccleſias iſtas? Videte quid agatis. Certè excutitur in vos faba iſta, et in eccleſias veſtras, ſi non meliùs vobis proſpexeritis. Periculoſè enim ageretur cum eccleſiâ Dei, ſi raptor ſacrilegus, alienorum bonorum invaſor, maximè eccleſiæ, tutus eſſet adverſùs eam appellationis auxilio. Fruſtrà enim juris implorat auxilium qui juri non obtemperat, immo qui eſt juri contrarius. Suntne iſtæ injuriæ quas addimus injuriis, labores quos laboribus adjicimus, quia iſta et alia enormia, quæ fiebant et quæ fiunt in eccleſiâ iſtâ, non ſuſtinuimus, quia gravati appellavimus, quia receſſimus a curiâ, quia auſi ſumus ſuper injuriis eccleſiæ et noſtris conqueri, et ſuper his omnibus non tacemus, quia iſta paramus corrigere? Periculoſè certè affligigitur cui ſaltem conquerendi ſolatium negatur. Vos, amici mei, qui altiora ſapitis inter alios, qui geritis vos aliis prudentiores, quoniam ſolent filii hujus ſæculi prudentiores eſſe filiis lucis, ut quid decipitis fratres veſtros et ſubditos? Quare inducitis eos in errorem iſtum? Quæ auctoritas, quæ ſcriptura, contulit hanc principibus prærogativam in eccleſiaſticis, quam vos vultis eis conferre? Nolite, fratres, nolite jura regni et eccleſiæ confundere. Diſcretæ quidem ſunt poteſtates iſtæ, quarum una vim et poteſtatem ſortitur ex aliâ. Legite ſcripturas, et invenietis quot et qui periêre reges, qui niſi ſunt ſibi ſacerdotale officium uſurpare. Provideat ergo veſtra diſcretio, ne ob iſtam preſſura divina vos atterat injuriam; quam, ſi venerit, non effugietis de facili.

Conſulite

Conſulite etiam Domino noſtro Regi, qui ejus comparatis gratiam eccleſiæ diſpendio, ne, quod abſit, pereat ipſe, et domus ejus tota, ſicut periêre qui in conſimili deprehenſi ſunt delicto. Si vero ab hoc inceptо non deſtiterit, quâ animi conſcientiâ non puniemus iſta, quâ puritate conſcientiæ iſta diſſimulabimus? Diſſimulet quidem qui hanc habet diſſimulandi auctoritatem; non ego, ne veniat in animam meam iſta diſſimulatio. Innuitis literis veſtris, immò apertè dicitis, me, regno reclamante, eccleſiâ etiam ſuſpirante et ingemiſcente, fuiſſe promotum. Scitis quid dicit veritas? "Os, quod mendacium ſcienter loquitur, occidit animam." Verba verò ſacerdotis ſemper comitem debent habere veritatem. Deus bone, nunquid non erubeſceret aliquis de plebe ita dicere? Conſulite conſcientias veſtras, advertite formam electionis, conſenſum omnium ad quos ſpectabat electio, aſſenſum principis per filium ſuum, et eos qui ad hoc miſſi ſunt, filii etiam cum omnibus primatibus regni. Si aliquis eorum contradixit, ſi reclamavit vel in aliquo, loquatur qui noverit, dicat qui eſt conſcius. Si verò inde turbatus fuerit aliquis, non dicat pro ſuâ moleſtiâ toti regno et eccleſiæ factam fuiſſe injuriam. Literas quoque Domini Regis, et omnium veſtrûm diligentiùs attendite, poſtulantes nobis cum multâ inſtantiâ pallium, et obtinuiſſe. Sic ſe habet rei veritas. Verùm, ſi quem torſit invidia, ſi quem afflixit ambitio, ſi cui tam pacifica, tam legitima, tam ſine contradictione facta electio dolorem et amaritudinem impreſſit animi, eatenus ut ob hoc machinetur et velit turbari omnia, indulgeat ei Dominus et nos, eò quod culpam ſuam minimè taceat, ſuamque animi indignationem in conſpectu omnium publicè confiteri non erubeſcat.

Dicitis me de exili ſublimatum ab ipſo in gloriam. Non ſum reverà *atavis editus regibus*. Malo tamen is eſſe, in quo faciat ſibi genus animi nobilitas, quam in quo nobilitas generis degeneret. Fortè natus ſum de paupere tugurio! Sed, cooperante Divinâ Clementiâ, quæ novit facere miſericordiam cum ſervis ſuis, quæ eligit humile ut confundat fortia, in exilitate mea, antequam accederem ad ejus obſequium, ſatis copioſè, ſatis abundanter, ſatis honorificè, ſicut ipſi noviſtis, prout abundantiùs inter vicinos meos et notos, cujuſcumque conditionis fuerint, converſatus ſum. Et David, de poſtſœtante aſſumptus, conſtitutus eſt ut regeret populum Dei; cui aucta eſt fortitudo et gloria, quoniam ambulavit in viis Domini. Petrus verò, de arte piſcariâ electus, factus eſt eccleſiæ princeps, qui ſanguine ſuo meruit pro nomine Chriſti in cœlis habere coronam, et in terris nomen et gloriam. Utinam et nos ſimiliter faciamus. Succeſſores enim Petri ſumus, non Auguſti. Novit Dominus, quo intuitu nos ipſe deſideraverit ſublimari. Reſpondeat ei ſua intentio, et nos reſpondebimus ei pro officii noſtri debito,

debito, fideliùs, per miſericordiam Dei, in ſeveritate, quam qui blandiuntur ei in mendaciis. Meliora enim ſunt verbera amici, quam fraudulenta oſcula inimici.

Impingitis nobis ingratitudinis notam per quandam inſinuationem. Credimus quia nullum peccatum criminale eſt, qui importet infamiam, niſi proceſſerit ex animo. Unde, ſi quis homicidium invitus commiſerit, etſi homicida dicatur et ſit, non tamen homicidii reatum incurrit. Sic dicimus: Etſi Domino noſtro Regi obſequium debeamus jure Dominii, ſi teneamur ad reverentiam præſtandam jure Regio, ſi Dominum ſuſtinuimus, ſi filium paterno affectu convenimus, ſi in conventum, non auditi et dolentes, neceſſitate officii cenſuram ſeveritatis exercemus, plus credimus nos pro ipſo facere, et cum ipſo, quàm contrà ipſum; plus ex eo promereri gratiam, quam ingratitudinis notam, vel pœnam. Sæpiſſimè certè beneficium confertur invito. Unde commodiùs ejus proſpicitur indemnitati, qui, etſi non aliàs, urgente neceſſitate revocatur a perpetratione delicti. Præterea defendit nos ab ingratitudinis notâ Pater noſter et Patronus, qui eſt ipſe Chriſtus. Jure Paterno tenemur ad ejus obedientiam, quâ non obſervatâ puniemur juſtâ exhæredationis pœnâ. Poteſt enim Pater exhæredare filium ex juſtâ cauſſâ. Ipſe enim dicit, "Si non annunciaveris impio iniquitatem ſuam, et moriatur in delicto ſuo, ſanguinem ejus de manu tua requiram." Ergo ſi delinquentem non convenimus, ſi non audientem non corripimus, ſi pertinacem non coërcemus, committimus in mandatum, et tanquàm inobedientiæ rei jure exhæredamur. Jure patronatûs, quo ejus ſumus liberi, quoniam, cum eſſemus ſervi peccati, facti ſumus liberi juſtitiæ per ejus gratiam, obligamur ei ad reverentiam et obſequium. Unde quòniam nemini, niſi ſalvâ ejus fide, tenemur obnoxii, ſi ſit contra eum, in diſpendium eccleſiæ, pertinaciter, meritò, ſi non punimus commiſſum, pro eâ parte ſollicitudinis in quam vocati ſumus, collatum revocabit a nobis ob ingratitudinem ipſe ſolus beneficium, ex quo verè apparebimus ingrati.

Proponitis nobis periculum eccleſiæ Romanæ, jacturam temporalium, periculum quidem noſtrum et noſtrorum: nec fit mentio de periculo animarum. Intentatis etiam comminatorium de receſſu Domini Regis, quod abſit, a fidelitate et devotione Romanæ eccleſiæ. Abſit, inquam, ut Domini noſtri Regis devotio et fides, ob temporale commodum vel incommodum, à fidelitate et devotione diſcedat eccleſiæ. Quod quidem criminale et damnabile eſſet in privato, nedum in principe, qui multos ſecum trahit poſt ſe. Abſit etiam, quod quis ejus fidelis hæc unquam cogitare debeat, nedum dicere ſubjectus aliquis, nedum epiſcopus. Videat diſcretio veſtra, ne oris veſtri verba inficiant aliquem, vel plures, in animæ

ſuæ

ſuæ diſpendium et damnationem, ad inſtar calicis aurei, qui dicitur Babylonis, interiùs et exteriùs veneno illiniti, de quo cum quis biberit, non timeat venenum, cum viderit aurum, et ſic in publicum veniat veſtri operis effectus. Ille enim, qui non fallitur, opus furtivum producit in lucem, et machinationes denudat iniquas. In tribulatione quidem et ſanguinis effuſione conſuevit eccleſia creſcere et multiplicari. Proprium enim eſt eccleſiæ, ut tunc vincat cum læditur, tunc intelligat cum arguitur, tunc obtineat cum deſeritur. Nolite ergo, fratres, ſuper ipſam flere, ſed ſuper vos ipſos, qui facitis vobis nomen, ſed non grande, ex hoc facto et dicto ex ore omnium; qui provocatis in vos Dei odium et univerſorum; qui paratis innocenti laqueum, qui cuditis novas et ingenioſas rationes in ſubverſionem libertatis eccleſiæ. Fratres, per miſericordiam Dei, in vanum laboratis. Stabit enim ipſa eccleſia, etſi ſæpius concuſſa, in eâ fortitudine et firmitate, in quâ firmiter fundata eſt, donec filius ille perditionis ſurgat, quem non credimus de partibus occidentalibus adſcenſurum, niſi perverſè mutatus fuerit ordo rerum, et ſeries ſcripturarum. Si verò de temporalibus agatur, plus timere debemus animæ periculum, quàm temporalium. Scriptura verò dicit, *Quid prodeſt homini totum mundum lucrari, animæ verò ſuæ ſuſtinere diſpendium?* Periculum itaque noſtrum et noſtrorum penitùs abjicimus. Non enim timendus eſt ille qui corpus perdit, ſed qui corpus et animam.

Arguitis nos ſuper ſuſpenſione venerabilis fratris noſtri Sareſberienſis epiſcopi, et excommunicatione Joannis illius ſchiſmatici ex-decani, priùs, ut dicitis, inflictâ pœnaliter, quàm de cognitione proceſſâ legitimè, quàm de ordine judiciorum canonicè proditâ. Reſpondemus quoniam utrumque iſtorum notavit juſta pœnæ ſententia, illum ſuſpenſionis, excommunicationis iſtum. Si perfectè tenetis negotii ſeriem, ſi rectè attenditis judiciorum ordinem, non erit, ut credimus, hæc veſtra ſententia. Hoc quidem habet authoritas, quæ vos latere non debet, quoniam in manifeſtis et notoriis non deſideratur iſta cognitio. Perpendite diligentius, quid actum ſit à Sareſberienſi ſuper decanatu poſt domini papæ prohibitionem et noſtram, ſub excommunicatione factam, et tunc rectiùs intelligetis, ſi de manifeſtâ inobedientiâ ſuſpenſio rectè ſequitur. Unde beatus Clemens; *Si prælatis ſuis non obedierint cujuſcumque ordinis univerſi, omneſque principes tam inferioris quam ſuperioris ordinis, atque reliqui populi, non ſolum infames, ſed etiam extorres a regno Dei, et conſortio fidelium, et à liminibus ſanctæ Dei eccleſiæ alieni erunt.*

De Joanne de Oxeneford dicimus, quia diverſis modis excommunicantur diverſi: Alii lege eos denunciante excommunicatos, alii ſententiâ notati, alii communicatione et participatione excommunicatorum. Illum

verò, quoniam incidit in hæreſim damnatam communicando ſchiſmaticis, et domini papæ excommunicatis, reatumque et maculam excommunicationis in ſe contraxit, quæ peſtis, more lepræ, inficit et intingit, conſimilique pœnâ facientes et conſentientes confundit; et quoniam contra domini papæ mandatum expreſſum, et noſtrum, ſub anathemate, decanatum Sareſberienſem excommunicatus uſurpavit, denunciavimus, et excommunicavimus, et excommunicatum firmiter tenemus. Et quod de eo factum eſt in decanatu, et ſuper decanatu, caſſavimus et caſſatum tenemus, ſicut et dominus papa jam ipſemet caſſavit authoritate octavæ ſynodi, cujus hæc eſt ſententia: *Si quis palam vel abſconsè cum excommunicato locutus fuerit, aut junctus communione, ſtatim in ſe contrahit excommunicationis pœnam.* Et concilium clarè dicit: *Qui communicaverit cum excommunicato, ſi clericus eſt, deponatur.* Videat ergo diſcretio veſtra, ne quis veſtrûm cum eo communicaverit. Calixtus enim Papa dicit: *Excommunicatos quoſque a ſacerdotibus nullus recipiat ante utriuſque partis examinationem juſtam, nec cum eis in oratione, aut in cibo aut potu, aut oſculo communicet, aut ave eis dicat. Quia quicumque in his vel aliis prohibitis ſcienter excommunicatis communicaverint, juxta Apoſtolorum inſtitutionem ſimili excommunicationi et ipſi ſubjacebunt.* Hic eſt ordo canonicus, non canonibus, ut credimus, incognitus, ſed authoritate canonum fultus.

Et ne miremini, ſi quandoque condemnatur abſens. Legite Paulum, qui abſens publicè fornicantem cum noverca ſua, non convictum teſtibus, non confeſſum, etiam abſentem, cujus crimen omnes ſciebant, et non arguebant, ſicut vos iſtius, quem non de jure defendit regia poteſtas, ejecit a cœtu fidelium, et judicavit eum tradi Sathano in interitum carnis, ut ſpiritus ſalvus fieret, ſicut nos iſtum. Cæterùm quoniam hoc tempore in partibus noſtris multa hujuſmodi, et ſatis gravia, in abſentiâ noſtrâ fiunt enormia, quæ de cætero, ſicut abſentes corpore, præſentes tamen authoritate, ſalvâ animi noſtri conſcientiâ, præterire non debemus, nec poſſumus, incorrecta, tibi, frater Londonienſis, qui nôſſe debueras illud Gregorii ſeptimi, *Siquis epiſcopus fornicationi preſbyterorum aut diaconorum, vel crimini inceſtûs, in ſuâ parochiâ, pretio, precibuſve, ſive gratiâ interveniente conſenſerit, vel commiſſum authoritate ſui officii non impugnaverit, a ſuo ſuſpendatur officio.* Illudque Leonis: *Si qui epiſcopi talem conſecraverint ſacerdotem, qualem eſſe non liceat, etiamſi aliquo modo damnum proprii honoris evaſerint, ordinationis jus ulterius non habebunt, nec ulli unquam ſacramento intererunt, quod immerito præſtiterunt.* Quoniam in iſtorum ſententiam canonum, ſicut pro certe audivimus, deliquiſti dupliciter, mandamus tibi, et in virtute obedientiæ

mandando injungimus, quatenus, ſi ita eſt, infra tres menſes poſt iſtarum ſuſceptionem literarum, venerabilium fratrum veſtrorum coëpiſcoporum conſilio, de tanto exceſſu ſic ſtudeas te offerre correctioni et ſatisfactioni, ne cæteri tuo exemplo in conſimile delictum incidant, et nos pro negligentiâ tuâ debeamus tibi ſeveriùs mandatum proponere.

Opponitis nobis contra metum gravaminum, non remedium per appellationem, ſed impedimentum, quo minùs, ſicut intelligimus, exerceamus adverſùm malefactores, invaſores bonorum eccleſiaſticorum, diſciplinæ cenſuram eccleſiaſticæ; ne in dominum noſtrum regem, vel terram ſuam, in perſonas veſtras et eccleſias, aliquid ſtatuamus eo ordine, quo progreſſi ſumus contra Sareſberienſem, ſicut dicitis, et ejus decanum. Abſit à nobis, ut aliquid in eum vel terram ſuam, in vos et eccleſias veſtras, inordinatè ſtatuerimus vel ſtatuamus. Sed quid eſt, ſi eo delinquitis modo, vel conſimili, quo jam deliquit Sareſberienſis, numquid hac appellatione poteſtis ſuſpendere authoritatem noſtram, ne in vos vel eccleſias veſtras ſeveritatis diſciplinam exerceamus, ſi delicti enormitas hoc exiget? Advertite diligentiùs, ſi hæc legitima appellatio, et quæ ſit hæc appellationis forma. Scimus quoniam omnis appellans aut ſuo nomine appellat, aut alieno. Si ſuo, aut à gravamine quod ei infertur, vel quod timet ſibi inferri. Certum tenemus, quòd nullum vobis gravamen, Deo gratias, a nobis illatum eſt, unde debeatis ad appellationis confugere remedium. Nec credimus vos ad præſens habere cauſam adverſùm nos aliquam, quæ ſpecialiter veſtra ſit. Si contra metum gravaminum, ne quid de cætero ſtatuam in vos vel eccleſias veſtras, videte ſi ſit iſte metus qui debeat cadere in homines conſtantiſſimos; ſi hæc ſit appellatio quæ debeat ſuſpendere omnem authoritatem et poteſtatem noſtram, quam habemus in vos et eccleſias veſtras. Creditur verò a ſapientibus, credimus et nos, eam nullius eſſe momenti, tum quia formam appellationis habere non videtur, tum quia rationi conſentanea non eſt, immò totius juris penitùs auxilio deſtituta.

Si alieno appellaſtis nomine, aut Domini Regis, aut alterius. Si non alterius, Domini Regis. Si Domini Regis, certè nôſſe debuerat diſcretio veſtra quoniam introductæ ſunt appellationes ad propulſandam injuriam, non ad inferendam; ad ſublevandos oppreſſos, non ad amplius opprimendos. Unde ſi quis, non confidentiâ juſtæ cauſæ, ſed causâ afferendæ moræ, ne contra eum feratur ſententia, appellaverit, hujuſmodi appellationem non eſſe recipiendam. Quis enim erit eccleſiæ ſtatus, ſi, ſubverſâ ejus libertate, ſi, rebus ejus occupatis ac detentis, epiſcopis à propria ſede expulſis, vel non pacificè cum omni ſecuritate omniumque

ablatorum reſtitutione admiſſis, raptores, occupatores, invaſores, ne coërceantur, liberè appellaverint, et ſe defenderint per appellationem? Quæ erit iſta eccleſiæ deſtructio? Videte quid agatis, quidque dicatis. Nonne vicarii Chriſti eſtis, nonne vices ejus in terra geritis, nonne veſtrûm eſt convenire, corripere, coërcere malefactores, ut vel ſic deſiſtant eccleſiam Dei perſequi? Ut quid non nimis eſt, ſi ipſi ſævierint in eccleſiam, niſi et nos, pro eis, vobis ipſis et eccleſiæ in ejus perniciem opponatis? Quis unquam audivit hæc mirabilia? Et audietur et prædicabitur in omni populo et gente, ſuffraganeos Cantuarienſis eccleſiæ, qui cum metropolitano ſuo, ob defenſionem eccleſiæ ejuſque libertatis, deberent vivere et mori, omniaque ſuſtinere diſpendia, velle ad mandatum regium, quantum in ipſis eſt, ſuſpendere poteſtatem ipſius et authoritatem, ne ſeveritatis diſciplinam exerceat in delinquentes adverſus eccleſiam. Unum certè ſcio: Duorum perſonam ſimul gerere non rectè poteſtis, appellantium et appellatorum. Vos eſtis qui appellaſtis, vos eſtis adverſùm quos appellatur. Nonne una eſt eccleſia, et vos de corpore ejus eſtis? En certamen ſatis legitimum, ſatis canonicum, ut qui membra ſunt eccleſiæ ineant certamen cum capite ſuo, quod eſt Chriſtus. Timeo, fratres, ne, quod abſit, dicatur de vobis, *Iſti ſunt ſacerdotes qui dixerunt, ubi eſt Dominus? Et tenentes legem neſcierunt eam.* Præterea diſcretionem veſtram latere non credimus, quoniam non ſolent audiri appellantes, niſi quorum intereſt, aut quibus mandatum eſt, aut qui negotium gerunt alienum. Intereſtne veſtra, ut non coërceantur delinquentes adverſus eccleſiam? Abſit. Immò certe contrarium. Si verò qui ſubvertit eccleſiæ libertatem, qui bona ipſius invadit et occupat, ac in ſuos convertit uſus, in ſui defenſionem minimè ſuper hoc auditur appellans, multò minus et pro eo appellantes. Ergo nec Domino Regi ſuffragatur à vobis pro ipſo edita, nec videtur vobis prodeſſe pro ipſo appellatio emiſſa. Unde ſi in hoc caſu appellare non poteſt, nec mandare, ſic nec vos ſuper hoc ab ipſo mandatum ſuſcipere. Adjicimus etiam vos in parte iſtâ nullatenus ejus gerere poſſe negotium. Nemo enim epiſcoporum alterius contra ſe negotium gerere poteſt, maximè in oppreſſione eccleſiæ, cujus ipſe defenſor eſt; et præſertim unde generaliter læditur eccleſiæ conditio. Ergo ſi nec veſtra intereſt appellare, nec ſuper hoc mandatum valetis ſuſcipere, nec alienum gerere negotium, nec auditur appellatio veſtra, nec de jure tenetur. Eſt-ne iſta devotio, conſolatio veſtra, paternæ charitatis affectus metropolitano veſtro, pro vobis omnibus exulanti, a fraternitate veſtrâ exhibitus? Indulgeat vobis Deus hanc inclementiam. An ignoratis, fratres, quòd chaos magnum, in fraudem legis et canonum, inter nos et vos firmatum ſit, ut non poſſit aliquis de noſtris

ſine

ſine diſcrimine capitis, vel captionis, vel truncationis membrorum, ad vos tranſire; etſi de veſtris aliqui liberiùs poſſunt, ſi vellent, ad nos tranſmeare? Et idcirco miramur, quem ordinem exigitis, ubi nullus ordo circa nos, circa eccleſias vel eccleſiaſticas perſonas, ſed horror, qui utinam ſempiternus non ſit, et injuriæ obſervantur; cum ſpoliati ſimus, et noſtri. Quorum quidam, tàm clerici quàm laici, capti, redempti ſunt poſt appellationem factam apud Northamtonam, et veſtram adverſùm nos. Cùm etiam, poſt iſtam, quam dicitis, appellationem, edictum generale ſit propoſitum, ſicut dicitur, ut nemo de noſtris inventus ſit in terrâ Anglicanâ, qui non capiatur; nemo veſtrûm vel aliorum amicorum noſtrorum literas noſtras vel nuncios audeat ſuſcipere. Eſt hæc reverentia appellationi debita, exhibita, et obſervata, infra cujus tempus, ſi juſta eſt, nil innovari oportet: Vos ipſi videritis. Quo ergo jure, quo ordine deſideratis à nobis literas veſtras et nuncios benignè ſuſcipi et audiri? Non hoc ideò dicimus, quidquid nobiſcum agatur et cum noſtris, ut quidquam circa perſonam Domini Regis vel terram ſuam, circa perſonas et eccleſias veſtras unquam inordinatè fecerimus, vel per Dei miſericordiam facturi ſimus.

Credebamus quidem, ſi rectè intelligitis, ſi cupitis utiliter eccleſiæ ſubvenire, de nimis ordinatâ et longâ patientiâ magis à vobis culpari, quam de ſeveritatis morâ commendari. Mora enim trahit ad ſe periculum. Quia nimis ordinata patientia plus habet remiſſionis quàm commendationis, plus vitii quàm virtutis. Et inde eſt, quòd breviter vobis dicimus et affirmamus conſtanter, Dominum noſtrum Regem nullatenùs fore injuſtè gravatum, ſi adverſùs eum, à Domino Papâ et à nobis ipſis, legitimè literis et nuntiis ac ſæpiſſimè conventum, ſatisfacere, cum poſſit, nolentem, ſeveritatis cenſura proceſſerit. Non enim injuſtè gravatur, quem jus punit legitimè. Et ut omnia breviſſimo fine concludam, certum tenete, quoniam raptores, invaſores, occupatores bonorum eccleſiæ, ejuſque libertatis ſubverſores, nec tuetur juris authoritas, nec appellatio defendit. Prætereà, fratres, ſi cupitis ei prodeſſe, prout juſtum eſt, quod et nos cupimus, novit Deus, qui ſcrutator eſt cordium, procurate ei ſubvenire illo modo, quo non offendatis in Deum, non in eccleſiam, non in ordinem veſtrum; quo etiam expeditiùs et ſalubriùs animæ ſuæ periculum, quod jam in foribus eſt, valeat evadere. Hæc idcircò diximus, ſi, inſpirante ei divinâ clementiâ, de conſilio veſtro ſatisfecerit eccleſiæ, gaudebit ipſa de filii ſui reverſione, et cum gratiarum actione et devotione multiplici parata fuit et eſt ſemper eum ſuſcipere. Gaudebimus et nos. Judicium verò veſtrum, quo dicitis eum ſatisfacere volentem,

paratum

paratum etiam ſatiſdare, ſi ſuper aliquo de libertatibus eccleſiæ inter ipſum et nos, ſicut dicitis, orta eſt contentio, quod quidem ſatis mira mur ſi alicui veſtrûm hoc eſt in dubium, cum toti ferè mundo ſit notum; quoniam non eſt conſentaneum rationi, immò penitùs juri contrarium, ſi non ſuſcipimus, immò quia non ſuſcipimus, in quo delinquimus? Eſtne cauſa iſta ſufficiens, eſtne peremptoria, quo minùs ſæpiſſimè et canonicè conventus, non ſatisfaciens, injurias ſuperaddens injuriis, ſeveritate divinâ coërceatur? Abſit. Scimus enim vos nullâ ratione in hac cauſâ judicis officio inter ipſum et nos fungi poſſe. Jam quia adverſarii ejus eſtis et eſſe debetis in eâ ob defenſionem libertatis eccleſiæ, cujus partis defendendæ, officii veſtri neceſſitate, cura vobis commiſſa eſt, et ſollicitudo credita: Quam ſi negligenter omittitis, ſi periculoſe diſſimulatis, vos ipſi videritis. Tum quia non legimus ſuperiores ab inferioribus, metropolitanos maximè à ſuis ſuffraganeis, judicari poſſe. Tum quia nobis et eccleſiæ quidam veſtrûm ſuſpecti ſunt, utinam non omnes! diverſis rationibus, quas in præſenti tacemus.

Audiat itaque Dominus meus poſtulationem fidelis ſui, conſilium epiſcopi, patris exhortationem, ut beneficiat ei Deus, et augeat dies ejus, et annos filiorum ipſius in tempora longa. Permittat eccleſiam frui pace et libertate ſub ipſo, tanquam ſub Rege Chriſtianiſſimo; eccleſiam Romanam uti jure et libertate in terrâ ſuâ, quam habere debet, et habet in cæteris regnis. Reſtituat Cantuarienſi eccleſiæ et nobis jura ſua et libertates, et omnia ablata cum pace et ſecuritate noſtrâ, ut liberè et quietè poſſimus Deo militare ſub ipſo, et ipſe debeat obſequio noſtro uti, prout ei placuerit, ſalvo honore Dei et eccleſiæ Romanæ, et ordine noſtro. Iſtæ ſunt dignitates Regiæ, leges optimæ, quas petere debet Rex Chriſtianiſſimus et obſervare; quibus gaudere debet et ſub ipſo florere eccleſia. Iſtæ ſunt leges obtemperantes legi Divinæ, non derogantes, quas qui non obſervaverit, inimicus Dei conſtituitur. *Lex enim Domini immaculata, convertens animas.* De legibus enim ſuis dicit Dominus, *Leges meas cuſtodite.* Et propheta, *Væ qui condunt leges iniquas, et ſcribentes ſcripſerunt injuſtitias, ut opprimerent pauperes in judicio, et vim facerent cauſæ humilium populi Dei.* Non erubeſcat ergo Dominus meus redire ad cor, humiliari in cordis contritione et humilitatis manſuetudine coram Domino, ſatisfacere ei et eccleſiæ ipſius de illatis injuriis. Cor enim contritum et humiliatum Deus non deſpicit, ſed amplectitur ſinceriùs. Sicut et Sanctus David, qui cùm peccâſſet, humiliavit ſe coram Domino, petivit miſericordiam, et obtinuit veniam. Sic et Rex Ninive et civitas tota, cum interminata eſſet ſubverſionis ſeveritas, quoniam in cinere et cilicio humiliavit ſe Domino, mutatâ ſententiâ meruit ultionis

tionis cenſuram contritione cordis et lachrymarum compunctione redimere.

Non hæc, fratres, vobis ſcribimus, ut facies veſtras confundamus, ſed ut lectis literis noſtris et intellectis, valeatis et velitis officii veſtri neceſſitates fortiùs et validiùs exercere. Opto vos de cætero ſemper meliùs agere, ut ſit nobis pax celerior, et amplior libertas eccleſiæ. Orate pro nobis, ut non deficiat in tribulatione iſtâ fides noſtra, ſed et ſecurè poſſimus dicere cum Apoſtolo, *Quia neque mors, neque vita, neque angeli, neque aliqua creatura poterit nos ſeparare à charitate Dei, quæ ſubjecit nos tribulationi, donec veniat qui venturus eſt, qui faciet nobiſcum miſericordiam ſuam, et ducet nos in terram promiſſionis, terram fluentem lacte et melle, quam non dabit niſi diligentibus ſe.* Valete omnes ſemper in Domino; et inſtantiùs oret, petimus, pro nobis tota Anglicana eccleſia. *

N° VI.

Ep. cviii. Lib. i. *Tho. Cantuar. Archi-epiſc. Gilberto Londonienſi Epiſcopo.*

Thomas Cantuarienſis Eccleſiæ humilis Miniſter Gilberto Epiſcopo Londonienſi, quod ſemel hoc iterum, ſic tranſire per bona temporalia, ut non amittat æterna.

This refers to B. 3. p. 427.

MIRANDUM et vehementer ſtupendum, Virum prudentem, ſacris literis eruditum, præſertim Religionem habitu præferentem, adeò manifeſtè, ne dicam irreverenter, et timore Dei, poſtpoſito, averſari veritatem, juſtitiæ reſiſtere, et ad omne fas nefaſque confundendum, ſtatum ſanctæ Eccleſiæ, quam ipſe fundavit Altiſſimus, velle avertere. Veritas eſt quæ dicit; *Portæ inferi non prævalebunt adverſus eam.* Non ſani igitur capitis eſſe dignoſcitur, qui intentat ei ruinam; homini ſimilis montem magnum fune circumligatum tentanti dejicere. Sed nunquid irâ vel odio deferbui, ut exacerbatus jaculari compellar hujuſmodi verba in fratrem meum, et collegam et coëpiſcopum meum? Abſit. Sed de literis tuis, quas mihi per archi-diaconum tuum deſtinandis accepi, talia collegi. Neque enim de ſpinis uvas, aut ficus de tribulis colligere potui. Ut clareat an ita ſit, proponamus eas, et continentiam earum in lucem proferamus. Finis collatus principio ſimilitudinem

* There are many faults in the printed Bruxelles Edition of the foregoing Letter, which have been mended here from the manuſcripts, and particularly the Cottonian; but from the obſcurity of ſome ſentences I apprehend that ſome errors remain in all the copies that I have been able to conſult.

ſcorpionis

ſcorpionis conformat : Illo blandiens ad nos ingreditur, illo pungens nos acerbè ſilentium nobis imponere machinatur.

Quid enim aliud eſt primò recognoſcere debitam nobis ſubjectionem, et ſubjectioni cohærentem obedientiam promittere, demum, ne obedire debeas, ad appellationem convolare? Nunquid apud me ſunt *eſt et non*, dicit Apoſtolus. Sed neque apud Apoſtoli deberent eſſe diſcipulum. Neceſſariò acceperunt diſcipuli a Domino poteſtatem calcandi ſuper ſerpentes et ſcorpiones. Habitat enim Ezechiel et hodiè cum ſcorpionibus. Et illud vide quo ſenſu dixeris: *Ad appellationis remedium confugimus.* Chriſti ſequelam te dicis: in hoc dicto ſecus inveniris. Omnium enim malorum noſtrorum efficax, immo efficaciſſimum remedium commendavit nobis Chriſtus obedientiam, non ſolum verbo, ſed evidentiſſimo exemplo, factus obediens patri ſuo uſque ad mortem. Et in quâ fronte appellas remedium obedientiæ impedimentum? Quod non remedium, ſed detrimentum rectius debet nominari. Sed et quâ fiduciâ hoc præſumis? ſperaſnè te habiturum defenſorem ad non obediendum illum, qui vindicandi in omnem inobedientiam et officium accepit et præceptum? Malè eſt hoc ſperare de eo, et in ipſum graviter offendere. Poterant te retardare ab hujuſmodi præſumptione, quas jam paſſus es, prima et ſecunda repulſio. Viva quippe vox tua primùm, et deinde literæ tuæ ad perſuadendum compoſitæ, expertæ ſunt quam firmiter ſtet, quàm ſit vicarius Petri, quem non precibus, non donis, nec comminationibus, vel promiſſis, movere potuiſti. Sed tertiò attentandus eſt, ut Domini ſui exemplo tertiâ attentatione triumphum reportet.

Porro, ut nihil deeſſet gravaminis, defixiſti terminum tuæ appellationi anni ferè ſpatium: Nec miſertus es noſtri exilii, vel laboris ſanctæ eccleſiæ, ſponſæ Chriſti, quam ipſe ſibi ſuo ſanguine acquiſivit. Et, ut hæc omittam, non omittenda tamen, providere debueras, cui te favere dicis, Domino noſtro Regi, qui quamdiu ſic aget in nos, vel in eccleſiam Chriſti, nec ad bella procedere, vel in pace degere, ſine animæ ſuæ periculo poterit. Ad reliqua tranſeamus. Quædam commemoras turbata eſſe in diſceſſu et ex diſceſſu noſtro. Timeant turbationis hujus authores et conſiliarii, ne et ipſi turbentur. Magnis me laudibus extollis, quaſi de bono principio meæ peregrinationis. Eſt quidem ſapientis famam non negligere, ſed diſcreti eſt nulli magis de ſe quàm ſibi credere. De injuriis inſimulor, quaſi illatis Domino noſtro Regi. Sed, quia nullam deſignas ex nomine, nec ego ſcio cui reſpondere debeam. Quia igitur ſuperficie tenus accuſor, ſuperficie tenus in hac parte me excuſo. Hoc tamen interim accipe reſponſum, quia nullius mihi conſcius ſum, nec propterea juſtificatus ſum. De comminatorio minaris, quod nos in

eum miſimus. Quis pater videt filium aberrare, et tacet? Quis virgâ non percutit, ne gladium incurrat? Deſperat pater de filio, quem commonitione non corripit vel flagello? Abſit autem ut tecum ſentiamus Dominum noſtrum Regem, impatientem correptionis, ad exterminationem Apoſtaſiæ lapſurum. Non enim patris cæleſtis plantatio eradicabitur. Navem concutit ſæviſſima tempeſtas: Clavum teneo, et ad ſomnum me vocas. Congeris et ſtatuis ante oculos noſtros beneficia nobis à Domino noſtro Rege collata, et de exili me commemoras ad ſumma provectum. Ut autem his aliquantiſper reſpondeam, in inſipientiâ meâ tamen, de quàm exili, putas? ſi tempus, quo me in miniſterio ſuo præſtituit, reſpicias, archidiaconatus Cantuariæ, præpoſitura Beverlaci, plurimæ eccleſiæ, præbendæ nonnullæ, alia etiam non pauca, quæ nominis mei erant poſſeſſio tunc temporis, adeo tenuem ut dicis, quantum ad ea quæ mundi ſunt, contradicunt me fuiſſe. Quod ſi ad generis mei radicem et progenitores meos intenderis, cives quidem fuerunt Londonienſes, in medio concivium ſuorum habitantes ſine querela, nec omnino infimi. Sed ut aliquando, mundi tenebris ſemotis, judicemur à lumine veritatis, quid glorioſius, naſci de mediocribus vel etiam infimis, an de mundi magnatibus et honoratis; cum dicat apoſtolus, *Inhoneſtiora membra corporis noſtri abundantiori circumdamus honore? Stemmata quid faciunt*, ait gentilis poeta. Quid habet dicere chriſtianus, epiſcopus, et religioſus? Sed fortaſſis de exiguitatis meæ memoriâ notam confuſionis mihi objicere voluiſti. Confundere vero Patrem quantum cedat in reatum ipſe videris, ex præcepto, quod de honorando Patre accepiſti.

Pro gratiâ vero Regis nobis commendandâ, commemoratione beneficiorum ejus non multum fuit laborandum. Teſtem enim Deum invoco, nihil ſub ſole me gratiæ ipſius et ſaluti præponere: Tantum ſalva ſint quæ Dei ſunt et ſanctæ eccleſiæ. Non enim aliter poterit feliciter regnare vel ſecurè. Eſto, quia ita eſt. Multo ſunt plura, etiam ampliora, quam tua explicet oratio, beneficia ejus erga me. Debuine pro his omnibus, vel etiamſi centumplicarentur, eccleſiæ Dei libertatem exponere? Quantò minus pro famæ meæ, quæ ſæpius à vero deviat, conſervatione? Si minus in aliis egi, in hoc nec tibi nec alii parco, nec angelo, ſi deſcenderit de cælo; ſed ſtatim, ut audiero talia commonentem, audiet ex me; *Vade retro, Sathana, non ſapis quæ Dei ſunt.* Abſit a me iſta dementia: Avertat a me Deus dementiam iſtam, ut aliquatenus perſuadear aliquibus tergiverſationibus inire commercium de Chriſti corpore, unde ego Judæ venditori, et Dominus meus Judæis aſſimiletur emptoribus Chriſti.

De promotione verò meâ, quam ſcribis factam matre Domini Regis diſſuadente, Regno reclamante, eccleſiâ, quoad licuit, ſuſpirante, hoc tibi reſpondeo; Quod Regni reclamationem non audivimus, ſed potius acclamationem. Diſſuaſio vero genetricis Domini noſtri, ſi fuit, uſque ad publicum non prodiit. Potuit autem fieri aliquas eccleſiaſticas perſonas, ad eandem promotionem, ut ſolet, adſpirantes, ſuſpiraſſe, cum ſe ſentirent ab eâ, quàm conceperant, ſpe decidere: Qui et hodie fortaſſis, in ultionem ſui caſûs, præſentis diſſenſionis authores ſunt et conſiliarii. Sed *væ illi, per quem ſcandalum venit.* Prætaxatis verò obſtaculis, et aliis, ſi quæ fuerunt, Divina prævaluit diſpenſatio, ut eſt hodie cernere. Exigor itaque ab eo, qui eſt ipſa juſtitia, nulli omninò eum poſtponere, qui me ſtatuit in gradu iſto ſuâ miſeratione.

Illud etiam, quod ad juſtificandum Dominum Regem videris propoſuiſſe, judicavi non prætereundum leviter, vel abſque diſcuſſione. Et utinam à juſtitiâ non diſſentiret, et noſtra adverſus eum minus juſta apparet querela. Dicis ipſum ad ſatisfaciendum ſemper fuiſſe paratum. Hoc te confidenter dicere, hoc te aſſeris prædicare. Suſtine igitur pauliſper, et ad interrogata reſponde. Illud quod dicis paratum ad ſatisfaciendum, quo ſenſu intelligis? Illos, quorum ſe Deus dicit patrem et judicem, orphanos, pupillos, viduas, innocentes, et omninò quæ nos movet controverſiæ ignaros, vides proſcribi, et taces; clericos exterminari, et non reclamas; alios bonis ſuis ſpoliari et contumeliis affici, et non contradicis; ſervientes meos in vincula conjici et teneri, et obmuteſcis; matris tuæ Cantuarienſis eccleſiæ bona diripi, et non reſiſtis; me patrem tuum gladios cervici meæ jam jam imminentes vix evaſiſſe, et non doles: ſed quod deterius eſt, cum perſecutoribus meis, et in me Dei et eccleſiæ ipſius, et hoc non in occulto, ſtare non erubeſcis. Eſtne hoc ſatisfacere, perpetrata mala non corrigere, et malis deteriora de die in diem adjicere? Sed fortaſſis illud in contrarium intelligis, ut ſit hoc ſatisfacere, ſcilicet voluntati impiorum deſervire, ſecundum illud; *Inebriabo ſagittas meas ſanguine.*

Sed dicis mihi: *Pater mi, de quibus me calumniaris, abſolvo me paucis. Tunicæ meæ timeo.* Verum eſt, fili mi, et nimis verum reſpondes. Et ideò gladium non habes. Quod enim ſcribis, ipſum paratum ſtare judicio Regni ſui, quaſi condigna ſatisfactio ſit hæc, quis eſt in terrâ, vel etiam in cælo, qui de Divina diſpoſitione præſumat judicare? Humana judicentur, Divina penitus inconcuſſa relinquantur. Quanto melius, frater mi, illi ſalubriùs, tibi ſecuriùs, intimares ei, et perſuadere modis omnibus elaborares, voluntatem Dei, de conſervandâ pace eccleſiæ ſuæ, de non appetendis his, quæ conceſſa non ſunt ejus adminiſtrationi,

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de honorandis ſacerdotibus Dei, nec qui ſint attendat, ſed cujus ſervi ſint.

In Sariſberienſem epiſcopum, et Johannem de Oxeneford, non decanum, ut dicis, ſed decanatus invaſorem, me præjudicio abuſum calumniaris. Sed meminiſſe debuiſti quædam manifeſta præcedere ad judicium. Et motum te dicis. Quidni? *Ucalegon trepidat, paries cum proximus ardet.* Et utinam benè movearis ab eo, in quo non benè feciſti. Sciat ergo et intelligat, te intimante, Dominus meus, quia qui dominatur in Regno hominum, ſed et angelorum, duas ſub ſe poteſtates ordinavit: Principes et Sacerdotes; unam terrenam, alteram ſpiritualem; unam miniſtrantem, alteram præeminentem; unam cui potentiam conceſſit, alteram cui reverentiam exhiberi voluit. Qui verò his vel illis de ſuo jure ſubtrahit, Dei ordinationi reſiſtit. Non indignetur itaque Dominus noſter deferre illis, quibus ſummus omnium deferre non dedignatur, Deos appellans eos ſæpiùs in ſacris literis. Sic enim dicit; *Ego dixi, Dii eſtis, &c.* Et: *Conſtitui te Deum Pharaonis.* Et: *Diis non detrahes*; Id eſt, ſacerdotibus. Et de eo qui jurgaturus erat, loquens per Moyſen ait; *Applica illum ad Deos*; id eſt, ad ſacerdotes. Nec præſumat Dominus noſter judices ſuos velle judicare. Terrenis enim poteſtatibus non ſunt commiſſæ claves Regni cælorum, ſed ſacerdotio. Inde ſcriptum eſt, *Labia ſacerdotis cuſtodient ſcientiam, et legem requirent ex ore ejus, quia Angelus Domini exercituum eſt.* Paulus etiam dicit: *Nonne Angelos judicabimus? quanto magis homines?*

Illud etiam, te ſuggerente, commemoretur Domino noſtro, dignum memoriâ et imitatione, quod in eccleſiaſticâ hiſtoriâ legitur de Conſtantino imperatore, cui cùm oblatæ fuiſſent ſcripto actiones contra epiſcopos, accuſationis quidem libellos accepit, et accuſatos convocans in eorum conſpectu eoſdem incendit, dicens: *Vos Dii eſtis a vero Deo conſtituti: ite, et inter vos cauſas veſtras diſponite: quia dignum non eſt ut nos homines judicemus Deos.* O magnum imperatorem! O diſcretè regnantem in terrâ; quæ aliena ſunt non uſurpantem, et Regnum æternum in cælo promerentem! Studeat itaque Dominus Rex tantum, tam diſcretum, tam felicem imitari principem, cujus et memoria laudabilis frequentatur in terris, et vita perpetua ac glorioſa habetur in cælis. Alioquin timeat quod in Deutoronomio Dominus minatus eſt, dicens; *Homo quicunque fecerit in ſuperbiâ, ut non exaudiat ſacerdotem aut judicem, morietur.* Ad hoc enim vocatus eſt, et in hoc ipſum temporalis Regni pax, de quâ nos commones, miniſtratur ei de cælo. Alioquin non ſalvatur Rex per multam virtutem ſuam, nec ſi ſubdantur ei Regna, et inclinentur nationes.

Sed hæc hactenus. Quoſcumque autem prætaxatarum habuiſti conſcriptores literarum, quod tibi reſponſum eſt noverint ſibi eſſe reſponſum. De cætero, fratres, vos commonefacio, rogo, et obſecro, ut vos non ſeparent ſchiſmata, nec obnubilent ſimultates; ſed ſit vobis in Domino cor unum et anima una. Et audiamus illum qui dicit, *Pro juſtitiâ agonizare pro animâ tuâ, et uſque ad mortem certa pro juſtitiâ. Et Deus expugnabit pro te inimicos tuos.* Non obliviſcamur illum diſtrictum judicem, ante cujus tribunal conſtitutos ſola nos veritas judicabit, amoto timore et fiduciâ omnis terrenæ poteſtatis. Valeat in Domino frateritas veſtra. *

N° VII.

Articles ſent over to England *from the King, Ann. Dom.* 1166. Cod. Cotton, p. 26. Cod. Vatic. p. 169.

This refers to B. iii. p. 436.

SCIATIS hunc eſſe tenorem mandatorum, quem Henricus Rex miſit in Angliam. Scilicet, ut omnes portus cautiſſimè cuſtodiantur, ne literæ interdictionis deferantur. Et ſi aliquis regularis illas attulerit, pedibus truncetur; ſi clericus, oculos amittat et genitalia; ſi laicus, ſuſpendatur; ſi leproſus, comburatur. Et ſi quis epiſcopus ejus inderdictum metuens recedere voluerit, nihil ſecum deferat præter baculum. Vult etiam ut omnes ſcholares repatriare cogantur, aut beneficiis ſuis priventur; et qui remanſerint, ſine ſpe remeandi remanebunt. Et Preſbyteri qui cantare noluerint, genitalia amittent: omneſque rebelles ſibi omnibus beneficiis priventur.

N° VIII.

Ep. cxxviii. *Clerus Cantiæ Provinciæ Alexandro Papæ.*

Patri ſuo et Domino, ſummo Pontifici Alexandro, Provinciæ Cantuarienſis Epiſcopi, et Perſonæ per eorundem Diœceſes locis pluribus conſtitutæ, Domino Patrique debitum charitatis et obedientiæ famulatum.

This refers to B. iii. p. 436, 437.

VESTRAM, Pater, meminiſſe credimus excellentiam, vos devotum filium veſtrum, Dominumque noſtrum chariſſimum, illuſ-

* To this Letter that of the Biſhop of London, N° III. from the Cottonian Manuſcript, was an Anſwer. It is tranſcribed from the printed Bruxelles Edition of Becket's Letters, and ſome faults are corrected in it from other Copies.

trem

trem Anglorum Regem, per venerabiles fratres noſtros, Londonienſem et Hereſordenſem Epiſcopos, directis jam dudum litteris conveniſſe, et de corrigendis quibuſdam, quæ Sanctitati veſtræ in ipſius regno corrigenda videbantur, paternâ gratiâ commonuiſſe. Qui, mandatum veſtrum debitâ veneratione ſuſcipiens, ut ſatis notum eſt, ad veſtra quidem monita non iratus intumuit, non elatus obedire contempſit, verum agens gratias paternæ correptioni, Eccleſiæ ſe ſtatim ſubmiſit examini, aſſerens de ſingulis, quæ juxta veſtri formam mandati ſibi diligenter expreſſa ſunt, Eccleſiæ Regni ſui ſe pariturum judicio, et quæ corrigenda decerneret, ipſius ſe conſilio, laudabili quidem et in principe dignè commendabili devotione correcturum. Ab hoc verò non recedit propoſito, non mentem revocat à promiſſo. Sit qui ſedeat, qui cognoſcat et judicet, divini reverentiâ timoris, non majeſtatem præ ſe ferens, ſed, ut filius obediens, judicio ſiſtere, legitimæque parere ſententiæ, et ſe legibus alligatum principem præſto eſt in omnibus exhibere. Unde nec interdicto, nec minis, nec maledictionum aculeis, ad ſatisfactionem urgeri neceſſe eſt divinarum ſe legum examini ſponte ſubdentem. Ejus enim opera nequaquàm luci ſe ſubtrahunt, nec occultari tenebris ullâ ratione depoſcunt. Rex namque fide Chriſtianiſſimus, *in copula caſtimoniæ conjugalis honeſtiſſimus* *, pacis et juſtitiæ conſervator ac dilatator incomparabiliter ſtrenuus, hoc votis agit, totiſque in hoc fervet deſideriis, ut de Regno ejus tollantur ſcandala, cum ſpurcitiis ſuis eliminentur peccata, pax totum obtineat atque juſtitia, et altâ ſecuritate et quiete placidâ ſub ipſo gaudeant et refloreant univerſa. Qui, cum pacem Regni ſui enormi inſolentium quorundam Clericorum exceſſu non mediocriter aliquando turbari cognoſceret, clero debitam exhibens reverentiam, eorundem exceſſus ad Eccleſiæ Judices retulit Epiſcopos, ut gladio gladius ſubveniret, et pacem, quam regebat et fovebat in populo, ſpiritualis poteſtas fundaret et ſolidaret in Clero. *Quâ in re partis utriuſque zelus enituit; Epiſcoporum in hoc ſtante judicio, ut homicidium, et ſi quid hujuſmodi eſt, exauthoratione ſolâ puniretur in Clerico; Rege verò exiſtimante pœnam hanc non condignè reſpondere flagitio, nec ſtabiliendæ paci bene proſpici, ſi lector aut Acolythus quemquam perimat, ut ſolâ jam dicti ordinis amiſſione tutus exiſtat* †. Clero itaque ſtatuto cœlitus ordini deferente,

* Mr. Carte has made uſe of this expreſſion to prove a new opinion of his own, that after Roſamond, King Henry the Second had no other miſtreſs, and that the charge of incontinence, brought againſt him by all the contemporary writers, is not well founded. But I think it only proves, that, when this letter was written, he had no publick or ſcandalous amour.

† This paragraph ſtates clearly the true ſubject of the controverſy between Henry and Becket, and for what cauſe the latter died a Martyr.

Domino

Domino vero Rege peccatum juſto, ceu ſperat, odio perſequente, et pacem altiùs radicare intendente, ſancta quædam oborta eſt contentio, quam excuſat, ut credimus, apud Dominum, ſimplex utriuſque partis intentio. Hinc non dominationis ambitu, non opprimendæ Eccleſiaſticæ libertatis intuitu, ſed ſolidandæ pacis affectu, eò progreſſum eſt, ut Regni ſui conſuetudines et dignitates, Regibus ante in Regno Angliæ à Perſonis Eccleſiaſticis obſervatas, et pacificè ac reverenter exhibitas, Dominus noſter Rex deduci vellet in medium, et, ne ſuper his contentioſus funis traheretur impoſterum, notitiæ publicæ delegari. Adjuratis itaque per fidem, et per eam quæ in Deum ſpes eſt, majoribus natu Epiſcopis, aliiſque Regni Majoribus, retroacti temporis inſinuato ſtatu, dignitates requiſitæ palam prolatæ ſunt, et ſummorum in Regno virorum teſtimoniis propalatæ. Hæc eſt Domini noſtri Regis in Eccleſiam Dei toto orbe declamata crudelitas, hæc ab eo perſecutio, hæc operum ejus perverſorum rumuſculis undique divulgata malignitas! In his tamen omnibus, ſi quid fuerit periculoſum animæ, ſi quid ignominioſum Eccleſiæ, Regni ſui ſe conſilio correcturum, devotione ſanctiſſimâ jamdiu eſt pollicitus, et conſtantiſſimè pollicetur. Et quidem pacis optatum finem noſtra, Pater, ut ſperamus, obtinuiſſet jam poſtulatio, ſi non iras jam ſopitas, et ferè prorſus extinctas, patris noſtri Domini Cantuarienſis de novo ſuſcitaſſet exacerbatio. Verùm hic, de cujus modeſtiâ redintegrationem gratiae huc uſque ſperabamus, ipſum, quem monitis emollire, quem meritis et manſuetudine ſuperare debuerat, per triſtes et terribiles litteras, devotionem Patris aut Pontificis patientiam minimè redolentes, cum in pacis perturbatores exercitum nuper ageret, durè ſatis et irreverenter aggreſſus eſt; in ipſum excommunicationis ſententiam, in regnum ejus interdicti pœnam, comminando. Cujus ſi ſic remuneratur humilitas, quid in contumacem ſtatuetur? Si ſic æſtimatur obediendi prompta devotio, in obſtinatam perverſitatem quonam modo vindicabitur? Minis quoque gravibus ſuperaddita ſunt graviora. Quoſdam namque fideles et familiares Domini noſtri Regis, primarios Regni proceres, Regiis ſpecialiter aſſiſtentes ſecretis, in quorum manu conſilia Regis et negotia Regni diriguntur, non citatos, non defenſos, non, ut aïunt, culpæ ſibi conſcios, non convictos aut confeſſos, excommunicationis innodavit ſententiâ, et excommunicatos publicè denunciavit. Adjecit etiam ut venerabilem fratrem noſtrum, Dominum Sareſberienſem Epiſcopum, abſentem et indefenſum, non confeſſum aut convictum, ſacerdotali priùs et Epiſcopali ſuſpenderit officio, quam ſuſpenſionis ejus cauſa comprovincialium aut aliquorum etiam fuiſſet arbitrio comprobata.

Si

Si hic itaque judiciorum ordo circa Regem, circa Regnum, tam præpoſterè, ne dicamus inordinatè, proceſſerit, quidnam conſequi poſſe putabimus, (Dies enim mali ſunt, et occaſionem habentes malignandi quàm plurimam), niſi ut tenor pacis et gratiæ, quo Regnum et Sacerdotium uſque modò cohaerent, abrumpatur, et nos cum commiſſo nobis Clero in diſperſionem abeamus exilii, aut à veſtrâ, (quod abſit!) fidelitate recedentes, ad ſchiſmatis malum in abyſſum iniquitatis et inobedientiæ provolvamur? Compendioſiſſima quippè via hæc eſt ad omne religionis diſpendium, ad Cleri pariter Populique ſubverſionem ac interitum. Unde ne Apoſtolatûs veſtri tempore tam miſerè ſubvertatur eccleſia; ne Dominus Rex et ſervientes ei Populi à veſtrâ, (quod abſit!) avertantur obedientiâ; ne totum, quod privatorum conſilio machinatur, poſſit in nos Domini Cantuarienſis iracundia, adverſus eum et ipſius mandata, Domino noſtro Regi aut Regno ejus, nobis aut commiſſis nobis Eccleſiis gravamen aliquod importantia, ad Sublimitatem veſtram voce et ſcripto appellavimus, et appellationis terminum diem Adſcenſionis Dominicæ deſignavimus, eligentes apud vos in omne, quod Sanctitati veſtræ placuerit, humiliari, quam ad ſublimes animi ipſius motus, noſtris non id exigentibus meritis, de die in diem tædioſiſſimè prægravari. Conſervet incolumitatem veſtram, Eccleſiæ ſuæ in longa tempora profuturam, omnipotens Deus, in Chriſto dilecte Pater.

N° IX.

MS. Cotton. Claudius, B. 2.

Fol. 142. *Alexander Papa Henrico Regi Angliæ.*

This refers to p. 439.

MAGNIFICENTIÆ tuæ nuntios, ſcil. dilectos filios noſtros Johannem Cumminum et magiſt. Radulfum de Tammworth, nobis et eccleſiæ Dei devotos et regiæ ſublimitati per omnia ſicut credimus fideliſſimos, et litteras quas nobis Excellentia tua tranſmiſit, tanto benigniori mente ſuſcepimus, et tanto eos majori gratiâ prævenimus et honore, quanto plenius novimus ipſos a magnifico principe et Rege Chriſtianiſſimo fuiſſe tranſmiſſos. Cui utique omnem, quam cum Deo poſſumus, gloriam cupimus et honorem, et ad cujus incrementum modis omnibus, quibus honeſtè poterimus nos et fratres noſtri, ac tota Eccleſia, quanto devotiſſimæ ſinceritatis tuæ affectum in majori ſumus neceſſitate experti, tanto ardentius intendimus aſpirare. Non enim tuæ devotionis inſignia, nobis tempore tam opportuno exhibita, a noſtrâ in poſterum memoriâ ulla ratione

poterunt divelli, vel in conſpectu Eccleſiæ aliquâ deſuetudine inumbrari. Petitiones quoque tuas, quas nobis per nuntios jam dictos miſiſti, in quibus cum Deo et honeſtate noſtrâ potuimus, ſicut idem Magnificentiæ tuæ viva voce plenius narrabunt, curavimus executioni mandare. Perſonas ſiquidem de latere noſtro juxta quod rogaſti, licet nobis graviſſimum ac difficillimum, hoc tempore maximè, aliquos a nobis emittere videatur. cum fratrum noſtrorum, et eorum præſertim quos tu deſideras, præſentiâ et conſilio opus habeamus; illius tam recolendæ ac magnificæ devotionis tuæ quam prædiximus non immemores exiſtentes, ad Sublimitatis tuæ præſentiam duximus deſtinandas, cum plenitudine poteſtatis eccleſiaſticas cauſas, quæ inter te et venerabilem fratrem noſtrum Thomam Cantuar. Archiepiſcopum hinc inde vertuntur, et illam quæ inter eundem Archipiſcopum et Epiſcopos Regni tui ſuper appellatione ad nos factâ movetur, necnon et alias cauſas terræ tuæ quas noverint expedire cognoſcendi, judicandi quoque, et, prout ſibi Dominus adminiſtraverit, canonicè terminandi. Eidem quoque Archiepiſcopo, ne te, aut tuos, ſeu regnum tuæ gubernationi commiſſum, donec cauſæ illæ debitum ſortiantur effectum, in aliquo gravare, vel turbare, aut inquietare attemptet, omnimodis inhibuimus. Verum, ſi idem Archipiſcopus in te, aut regnum tuum tuæ gubernationi commiſſum, vel perſonas regni, interim aliquam ſententiam tulerit, nos eam irritam eſſe et non tenere cenſemus. Ad judicium autem hujus rei, in argumentum noſtræ voluntatis, litteras præſentes, ſi articulus ingruerit neceſſitatis, oſtendas. Alioquin Serenitatem tuam rogamus et attentius commonemus, ut literas ipſas, aut earum tenorem, a nullo ſciri permittas, ſed eas habeas omnino ſecretas. Illos vero familiares et conſiliarios tuos, quos jam dictus Archiepiſcopus ſententiæ excommunicationis ſubjecit, perſonæ de latere noſtro tranſmiſſæ, Domino auctore, abſolvent. Si autem aliquis illorum interim metu mortis laboraverit, præſtito ſecundum eccleſiæ conſuetudinem juramento, quod noſtro, ſi convaluerit, debeat ſuper hoc parere mandato, ipſum ab aliquo epiſcopo vel alio religioſo viro et diſcreto abſolvi concedimus. Porro fratribus noſtris, quos illuc mittemus, poſt inſtantem Domini nativitatem eundi præceptum dabimus, qui, auctore Domino, in menſe Januario, iter, ſicut credimus, aggredientur. Data Lateran. XIII. Kalend. Januar.

N° X.

Ep. XLV. *l.* ii. *Alexandro Papæ Thomas Cantuarienſis Archiepiſcopus.*

Amantiſſimo Domino et Patri Sanctiſſimo Alexandro, Dei Gratiâ Sanctæ Romanæ Eccleſiæ ſummo Pontifici, Thomas Cantuarienſis Eccleſiæ miniſter humilis, miſer ac miſerabilis exul, ſalutem, et inter omnia pericula firmam et veram obedientiam.

MITTIMUS Sanctitati veſtræ latorem præſentium, pro conditione et capacitate, ut credimus, fidelem. Eum, ſi placet, pro nobis et de nobis, benignè exaudiat clementia veſtra, prout decet et expedit miſeriæ noſtræ, quæ jam amicis noſtris deſperatione facta eſt tædioſa, utinam non odibilis; vobis, unde magis dolemus, ſicut plures judicant, diſſimulatione manifeſtâ non utinam contemptibilis; inimicis noſtris etiam compaſſione miſerabilis. Exurge, Domine, et noli tardare ampliùs. Illumina faciem tuam ſuper nos, et fac nobiſcum ſecundum miſericordiam tuam, et cum miſeris noſtris præ nimiâ preſſurâ deficientibus; ſalva nos, quia perimus. Non confundamur inter homines, non inſultent nobis adverſarii noſtri, immo Chriſti et Eccleſiæ, non fiat fortuna noſtra in deriſum genti et populo, quia nomen tuum invocavimus ſuper nos. Non nobis, Domine, non nobis, ſed in nomine Domini Jeſu-Chriſti, fac tibi grande nomen, repara gloriam tuam, revela famæ tuæ nomen, quæ in reverſione illius excommunicati et perjuri ſchiſmatici, Joannem de Oxeneford loquor, falſâ illius prædicatione in partibus Galliæ vehementer eſt depreſſa. (Novit Deus quia non mentior, et, ſi mihi non creditur, quæratur ab his de Gallia, qui honorem vobis magis affectant, qui amplius optant eccleſiæ proventum) Famæ, dico, quæ hactenus apud homines viguit inculpata, quæ inter omnia pericula ſervata eſt illæſa, quæ cæteris perditis ſola intemerata remanſit, quæ ubique locorum ſana habebatur et celebris. Reſumat itaque vires præceptoris authoritas, reformet nobile factum, prius commendabile, ſed malè poſteà denigratum, ut ſentiat garrulus ipſe ſe falſa ſparſiſſe, prædicaſſe mendacia. Experiatur ſeveritatem qui remiſſionem demeruerat, perferat ultionem qui abuſus eſt benignitate, ut agnoſcat mundus eum reperiſſe Chriſti vicarium fundatum in firmâ petrâ, non facile mobilem, non baculum arundineum, ſicut magni ſubmurmurant, ſed æquitatis et juſtitiæ

This refers to B. iii. p. 446, 447.

titiæ obſervatorem, non acceptorem perſonarum, nemini parcentem in judicio, de juris æquitate fideliter et æquè diſpenſantem Regi pariter ac privato. Valeat Sanctitas veſtra, ut valeamus et nos, et miſeri noſtri.

N° XI.

Rymeri Fœdera, etc. Tom. I. *p.* 23, *et ſeq.*

Conventio facta apud Doveham inter Henricum Regem Angliæ et Henricum Filium ejus ex una parte, et Theodoricum Comitem Flandriæ et Filium ejus ex altera.

This refers to p. 460, l. 3.

A. D. 1163. 1. HÆC conventio facta eſt et ſcripta apud Doverham 14 Kal. April, inter Henricum Regem Angliæ, et Ducem Normanniæ et Aquitaniæ et Comitem Andegaviæ, et Henricum Filium et Hæredem ſuum; et Theodoricum Comitem Flandriæ, et Comitem Philippum filium et hæredem ſuum.

2. Theodoricus Comes Flandrenſis, et Comes Philippus, Filius et Hæres ſuus, fide et ſacramento aſſecuraverunt Regi Henrico, et Henrico Filio et Hæredi ſuo, vitam ſuam et membra quæ corporibus ſuis pertinent, et captionem corporum ſuorum, ne Rex vel Henricus Filius ſuus eam habeant ad dampnum ſuum.

3. Et quod juvabunt eos ad tenendum et ad defendendum Regnum Angliæ contra omnes homines qui vivere et mori poſſunt; ſalva fidelitate Lodovici Regis Francorum; ita quod, ſi Rex Lod. Regnum Angliæ ſuper Regem Henricum, vel ſuper Henricum Filium ſuum, invadere voluerit, Comes Theodor. et Comes Philippus, ſi potuerint, Regem Lod. remanere facient, et quærent quocunque modo poterunt, conſilio et precibus, per bonam fidem, abſque malo ingenio, ſine datione pecuniæ, ut remaneat.

4. Et ſi Rex Lod. in Angliam venerit, et Comitem Theod. vel Comitem Philippum ſecum adduxerit, Comes Theod. vel Comes Phil. (uter eorum cum eo venerit) tam parvam fortitudinem hominum ſecum adducet, quam minorem poterit, ita tamen, ne inde feodum ſuum erga Regem Franciæ forisfaciat.

5. Et, ante neceſſitatem, infra 40 dies poſtquam Comes Theod. vel Comes Phil. ex parte Regis Henrici, vel ex parte Henrici Filii ſui, legato, vel literis ſuis, ſummonitus fuerit, idem Comes mille equites habebit ad portus ſuos, paratos transfretare in Angliam, in auxilium Regis Henrici, vel Henrici Filii ſui, quam citius potuerint.

6. Et

6. Et Rex Henricus vel Henricus Filius ſuus inveniet eis naves, et mittet eas vel ad Gravelingas, vel ad Witſand.

7. Et tot naves mittet, quod ſufficiant tot militibus, ita ut unuſquiſque habeat ſecum tres equos: Ita tamen, quod ſi Rex Henr. vel Henricus Filius ſuus, has naves ſimul una vice non miſerit, milites remanentes de mille expectabunt ad portum, ab illa die, qua naves cum militibus de portu exibunt, uſque ad totum unum menſem, niſi infra ipſum menſem tranſierint.

8. Et naves iſtas ſalvas faciet Comes Theod. vel Comes Phil. de omnibus ſuis, et de omnibus aliis hominibus, a quibus eas ſalvare potuerit, eundo, morando, et redeundo.

9. Et poſtquam dicti milites in Anglia erunt, fiducias facient Regi Henrico, vel Henrico Filio ſuo, aut legatis ſuis, (ſi requiſiti fuerint) de hoc, quod, quamdiu in itinere illo in Anglia erunt, ad proficuum Regis Henrici et Henrici Filii ſui erunt, et non quærent quomodo Rex vel Henricus Filius ſuus perdat terram, vel hominem, ſed juvabunt eos, per bonam fidem, ad tenendum et defendendum Regnum Angliæ contra omnes homines.

10. Et, ſi aliqua alia gens ſuper Regem, vel ſuper Henricum Filium ſuum, in Angliam venerit, ſi Comes Theod. vel Comes Phil. ex parte Regis vel Henrici Filii ſui, ut prædiximus, ſummonitus fuerit, infra prædictum terminum, et ante neceſſitatem, Comes Theod. vel Comes Phil. cum mille militibus in Angliam venient; ſi non remanſerint propter monſtrabilem ſui corporis infirmitatem, vel terræ ſuæ amiſſionem, vel Lodov. Regis Francorum expeditionis ſummonitionem, vel propter Imperatoris Romani expeditionis ſummonitionem per totam terram ſuam, ſi ipſe Comes Theod. vel Comes Phil. tunc temporis ibi ſint: et ita, quod nulla prædictarum ſummonitionum inventa ſit per dolum, vel per malum ingenium, vel ad ejus adventum et mille militum ſuorum diſturbandum.

11. Et, ſi aliquis Comes Angliæ, vel alii homines illius terræ, Regi, vel Henrico Filio ſuo boiſiaverint, ita quod Rex, vel Henricus Filius ſuus, comitatum vel valens comitatum amiſerit, Comes Theod. vel Comes Phil. cum mille militibus in Angliam in auxilium Regis, vel Henrici Filii ſui, veniet; niſi pro aliqua prædictarum quatuor exoniarum remanſerit.

12. Et, ſi uterque Comes propter hoc remanſerit, ita quod neuter eorum venire poſſit, mittet mille milites in Angliam, in auxilium Regis, vel Henrici Filii ſui, ut ſupra diximus.

13. Et ſi per ſummonitionem Regis, vel Henrici Filii ſui, plures quam mille milites adduxerit, vel miſerit, de tot erit quietus in proximo ſequenti ſervitio, quot ſupra mille adduxerit vel miſerit.

14. Et ſi ex mille militibus defuerint 20 vel 40 et uſque ad centum, propter hoc Comes Theod. vel Comes Phil. non amittet conventionem ſuam erga Regem vel Henricum Filium ſuum; ſi, poſtquam ex parte Regis, vel Henrici Filii ſui, Comes Theod. vel Comes Phil. ſummonitus fuerit, infra 15 dies perficiet numerum.

15. Et homines, qui ad Regem, vel Henricum Filium ſuum, venerint, vel qui ab illis venient, ſalve et quiete ibunt et venient per totam terram et per omnes portus Comitis Theod. et Comitis Phil. (et nominatim per totam terram et portus de Bolonefio) quicunque ipſi ſint, vel undecumque veniant; nec naves defendentur eis in aliquo portuum, ubi eas convenienter conducere voluerint.

16. Et nec Comes Theod. nec Comes Phil. denegabit licentiam hominibus de terra ſua, qui ad ſervitium Regis Angliæ, vel Henrici Filii ſui, venire voluerint; et, ſi venerint, propter hoc non amittent terram, nec feodum, nec conventionem aliquam, quam habeant de Comite Theod. vel de Comite Phil.

17. Et ſi Comes Theod. vel Comes Phil. vel homines ſui, in auxilium Regis, vel Henrici Filii ſui, venerint, quamdiu in Anglia fuerint erunt ad victum Regis, vel Henrici filii ſui; et Rex, vel Henricus Filius ſuus, reddet eis perdita ſua, facta in Anglia, ſicut mos eſt reddere familiæ Regis Angliæ.

18. Et quamdiu illa neceſſitas duraverit, erunt cum Rege, vel Henrico Filio ſuo, et ei fideliter ſervient; et, finita neceſſitate, permittet eos Rex, vel Henricus Filius ſuus, redire, et inveniet eis naves, et Comiti Theod. vel Comiti Phil. eas ſalvas cum hominibus ſuis et pecuniis ſuis remittet.

19. Et inimici Regis, vel Henrici Filii ſui, qui ſibi werram, vel per terram, vel per mare, facient, fiduciam in neutro Comitum habebunt; nec receptaculum in terra ſua, nec in terra Bolonefii, nec alibi, quæ Comes Theod. vel Comes Phil. eis defendere, vel auferre, poſſit, abſque omni dolo et malo ingenio.

20. Et ſi aliquis hominum Comitis Theod. vel Comitis Phil. Regi, vel Henrico Filio ſuo, vel hominibus ſuis forisfecerit, et rectitudinem, pro neutro Comitum, Regi, vel Henrico filio ſuo, vel hominibus ſuis, facere voluerit; nec in Comite Theod. nec in Comite Phil. nec in hominibus

bus eorum fiduciam habebit, niſi conſenſu et voluntate Regis, vel Henrici Filii ſui.

21. Et ſi Rex, vel Henricus Filius ſuus, Comitem Theod. vel Comitem Phil. in Normannia vel Cænomania ſecum habere voluerit in auxilio, et eum inde ſummonuerit, ipſe Comes cum mille militibus ibit illuc, et Regem, vel Henricum Filium ſuum, per bonam fidem juvabit, ſicut Amicum et Dominum, de quo feodum tenet; nec dimittet quin eat, donec Rex Franciæ judicari faciat Comiti Theod. vel Comiti Phil. quod non debeat juvare Dominum et Amicum ſuum Regem Angliæ, vel Henricum Filium ſuum, cujus feodum tenet; et hoc per pares ſuos, qui Comitem Flandriæ de jure debent judicare.

22. Et iſtas ſummonitiones nec Comes Theod. nec Comes Phil. ullatenus diffugient, nec illi, qui hanc ſummonitionem facient, dampnum vel malum habebunt per Comitem Theod. vel Comitem Phil. nec per aliquem hominem de quo eos Comites prædicti defendere poſſint.

23. Quod ſi Rex, vel Henricus Filius, Comitem Theod. vel Comitem Phil. in Normannia ſecum in auxilio habere voluerit, et eum literis, vel legatis ſuis, ſummonuerit, Comes ſummonitus, ad Regem, vel ad Henricum Filium ſuum, cum mille militibus veniet: qui poſtquam in Normannia fuerint, octo diebus erunt ad victum Comitis Theod. vel Comitis Phil. Et ſi Rex, vel Henricus Filius ſuus, eos diutius in ſervitio ſuo retinere voluerit, morabuntur cum ipſo in ſervitio ſuo: Et, quamdiu eos retinere voluerit, liberationes ſuas eis dabit, et perdita eorum, in ſervitio ſuo facta, eis reſtaurabit; ſicut mos eſt facere familiæ ſuæ.

24. Et ſi illo tempore Rex Lod. ſuper Regem, vel Henricum Filium ſuum, in Normanniam intraverit, Comes Theod. vel Comes Phil. ad Lod. Regem Franciæ ibit cum 20 militibus tantum, et omnes alii prædicti milites remanebunt cum Rege, vel cum Henrico Filio ſuo, in ſervitio et fidelitate ſua.

25. Ipſe vero Comes Theod. vel Comes Phil. veniet ad Regem, vel Henricum Filium ſuum, in Normanniam, ſicut prædictum eſt; niſi remanſerit propter apparentem ſui corporis infirmitatem, vel terræ ſuæ amiſſionem, vel ſuam expeditionem, vel Regis Francorum, vel Imperatoris Romani expeditionem, ſicut ſupra ſcriptum eſt.

26. Et, ſi propter hoc Comes ſummonitus remanſerit, mille milites, ut prædiximus, in Normanniam, ad ſervitium Regis, vel Henrici Filii ſui, mittet.

27. Et ſi Rex, vel Henricus Filius ſuus, in Cænomannia eum ſecum habere voluerit, ipſe ibit cum quingentis militibus ſemel in anno, et erit in familia Regis, vel Henrici Filii ſui, per unum integrum menſem, in

Cænomannia, ſi Rex vel Henricus Filius ſuus eos tamdiu retinere voluerit ad liberationem Regis, vel Henrici filii ſui, et ad perdita reddenda, ſicut mos eſt familiæ Regis. Et hoc idem faciet eis Rex, vel Henricus Filius ſuus, ex quo intrabunt in Normanniam, ad eundum in Cænomanniam.

28. Quod ſi Comes Theod. vel Comes Phil. per ſummonitionem Regis, vel Henrici Filii ſui, plures quam mille milites in Normanniam, vel plures quam quingentos in Cænomanniam duxerit, vel miſerit, quot ſupra mille in Normaniam, vel ſupra quingentos in Cænomanniam duxerit, vel miſerit, de tot erit quietus in proximo ſequenti ſervitio horum duorum ſervitiorum Normanniæ vel Cænomanniæ.

29. Quodcumque Comes Theod. vel Comes Phil. Regi, vel Henrico Filio ſuo, ſemel in anno fecerit, per hoc quietus erit de altero ſervitio in illo eodem anno, niſi gratia amicitiæ fecerit.

30. Et, ſi Comes Theod. vel Comes Phil. in expeditione fuerit, quando hanc ſummonitionem habuerit, poſt reditum de expeditione habebit reſpectum uſque ad finitas tres hebdomadas; et eundem reſpectum habebit, ſi ſummonitus fuerit inter proximos octo dies poſt reditum de expeditione; et, ſi infirmus fuerit, habebit reſpectum mittendi milites uſque ad finitos 15 dies.

31. Et, pro iſta conventione et ſecuritate, et pro ſervitio ſupradicto, dedit Rex Henricus et Henricus Filius ejus poſt eum, Comiti Theod. et Comiti Phil. Filio ejus poſt eum, quingentas marcas, unoquoque anno, in feodo; ſcilicet, comiti 400 marcas, et Comitiſſæ Flandriæ 100 marcas. Et, ſi Comitiſſa deceſſerit, tota pecunia Comiti perſolvetur.

32. Et, pro hoc feodo, per iſtas conventiones prædictas, et quia Comes Theod. hominium fecerat Regi Henrico avo iſtius Regis Henrici, Comes Phil. fecit hominium iſti Regi Henrico.

33. Et, de omnibus iſtis conventionibus attendendis, dederunt Comes Theod. et Comes Phil. Henrico Regi, et Henrico filio ſuo, iſtos obſides; Cononem Caſtellanum de Brugis, pro 100 marcis; Euſtachium de Grumims Camerarium, pro 100 marcis. Ernold. Comit. de Githnis, pro 100 marcis; Widonem Caſtell. de Bergis, pro 100 marcis; Walter de Tenremunt, pro 100 marcis; Roger. Caſtellan. de Curtrai, pro 100 marcis; Rathonem de Gavera Pincernam, pro 100 marcis; Roger. de Waverino Dapiferum, pro 100 marcis; Balden de Ballolio, pro 100 marcis; Robert. Advocatum Betonienſem, pro 100 marcis; Terril de Aloft, pro 100 marcis; Mich. Conſtab. pro 100 marcis.

34. Et

34. Et, de iſtis 12 obſidibus, debent ſex eorum conducere prius dictos milites in ſervitio Regis, vel Henrici Filii ſui, ſi Comes Theod. et comes Phil. defuerint, propter aliquam prædictarum exoniarum. Et, ſi ſex de obſidibus non fuerint ad conducendum, duo, ad minus, de eis illos conducent, et quatuor de baronibus Comitis, (loco illorum quatuor qui defuerint) æque valentes ad ſervitium Regis, vel Henrici Filii ſui.

35. Et iſti prædicti 12 obſides tali conditione ſunt obſides; ſi Comes Theod. et Comes Phil. de prædictis conventionibus exierint, vel alter eorum, et ipſi eum, infra tres quarentenas, reconciliare Regi, vel Henrico Filio ſuo, non potuerint, quod unuſquiſque de prædictis obſidibus dabit Regi, vel Henrico Filio ſuo, 100 marcas argenti, et facient infra tres quarentenas, vel in captione Regis, vel Henrici Filii ſui, ſe ponent, pro prædictis marcis: Et Rex, vel Henricus Filius ſuus, ab eis non plus exiget quam quod prædictum eſt; et ponent ſe in captione in Turri London, vel in alio loco, ubi Rex, vel Henricus Filius ſuus eos libere poſſit retinere ad proficuum ſuum.

36. Et, ſi aliquis de iſtis obſidibus mortuus fuerit, vel a fidelitate Comitis Flandriæ, aut a terra ſua, receſſerit, Comes alium æquivalentem, in loco ejus, ad ſummonitionem Regis vel Henrici Filii ſui, reſtaurabit.

37. Et, ſi, dum obſides jam dictam pecuniam Regi miſerint vel Henrico Filio ſuo, eis in Anglia ablata ſit ab hominibus, quos Rex vel Henricus Filius ſuus conſtringere poſſint, quieti erunt.

38. Et, ſi in mari eam perdiderint, habebunt reſpectum per 40 dies, ad reſtaurandam pecuniam.

39. Et, ſi Regi vel Henrico Filio ſuo placuerit, Comitiſſa Flandrenſis aſſecurabit Regi vel Henrico Filio ſuo, fide ſua, pro feodo ſuo prædicto, quod ad omne poſſe ſuum, conſilio ſuo, et precibus ſuis, faciet Comitem omnes prædictas conventiones tenere integre, et ſervitia fideliter facere, per bonam fidem, abſque omni dolo et malo ingenio.

40. Rex vero aſſecuravit Comiti Theod. et Comiti Phil. vitam ſuam, et membra quæ corporibus ſuis pertinent; et captionem corporum ſuorum, ne Comites eam habeant ad dampnum ſuum, quamdiu Comes Theod. vel Comes Phil. prædictas conventiones Regi vel Henrico Filio ſuo tenuerit.

41. Et, propter prædictas conventiones et prædictum ſervitium, dabit Rex vel Henricus filius ſuus Comiti Theod. vel Comiti Phil. prædictas quingentas marcas in natali Domini.

42. Et, ſi prædicta pecunia in prædicto termino tota perſoluta non fuerit infra 40 dies, poſtquam ipſe Rex ſummonitionem Comitis, per legatum ſuum in Anglia vel in Normannia, ſuſceperit, illam perſolvet.

43. Si vero in aliqua alia terrarum ſuarum ſummonitionem inde a legatis comitis ſuſceperit, infra 40 dies, poſtquam in Angliam vel Normanniam redierit, pecunia perſolvetur, ſine malo ingenio.

44. Hujus conventionis ex parte Regis et Henrici Filii ſui obſides ſunt, Rich. de Humez Conſtabular. pro 100 marcis; Reginald de Sancto Valerico, pro 100 marcis; Rich. de Luſcy, pro 100 marcis; Henricus filius Gerald. Camerarius, pro 100 marcis; Bernardus de Sancto Walerico, pro 100 marcis; Manaſſer. Biſet Dapifer, pro 100 marcis; Roger de Cailli, pro 100 marcis; Hugo Comes de Norf, pro 100 marcis; Willielmus Comes de Arundel, pro 100 marcis; Robertus filius comitis de Legra, pro 100 marcis; Galf, pro 100 marcis; Hug. Comes Ceſtriæ, pro 100 marcis.

45. Et iſti tali conditione ſunt obſides erga Comitem, quali conditione Comitum obſides erga Regem et Henricum Filium ſuum.

46. Et omnes obſides communiter aſſecuraverunt quod non diffugient ſummonitionem, et quod ſummonitores ſecuri erunt ab eis, et ab omnibus quos prohibere poterunt a nocumento ipſorum.

N° XII.

Ep. xxxiii. *l.* ii. *Alexandro Papæ Epiſcopi et Clerus Angliæ.*

Patri ſuo et Domino, ſummo Pontifici Alexandro, Anglicana Eccleſia devotum et debitum charitatis et obedientiæ famulatum.

This refers to B. iii. p. 474.

SUBLIMITATI veſtræ, Pater Reverende, venerande, gratias affectuoſè referimus, quod ad petitionem filii veſtri devotiſſimi, Dominique noſtri dilectiſſimi, illuſtris Anglorum Regis, filios veſtros chariſſimos, ſumméque vobis in eâ, quæ ad præſens eſt, tempeſtate neceſſarios, ad ipſum curaſtis in longinqua tranſmittere, affectuque paterno, eorundem laboribus, noſtris parcere, et gravaminibus noſtra piè gravamina ſublevare. Habentes itaque mittenti gratias, miſſos honore debito, totaque cordium alacritate, ſuſcepimus, ſperantes eorum adventu finem malis diu jam protractis imponi; et quæ turbata ſunt apud nos in pacis priſtinæ ſerenitatem, coöperante ſibi gratiâ, reformari. Inde eſt quod eis, tanquàm judicibus ad hoc à Sanctitate veſtrâ directis, noſtram unà cum Domino noſtro Rege præſentiam reverenter exhibuimus, optantes pariter et expectantes omnia, quæ inter Dominum noſtrum Regem et Dominum Cantuarienſem, quæque inter ipſum vertuntur et nos, in eorum præſentiâ palam

palam fieri, et, juxta veſtri formam mandati, diffinitivâ eorum ſententiâ pleniſſimè terminari. Ipſis in modum hunc reverentiam judiciariæ poteſtati debitam exhibentes adſtitimus, et ecce! ſiniſtro confuſi nuncio, à priùs conceptâ ſpe gaudii in deſperationis foveam lapſi, audita ſatis nequimus admirari. Audito enim, et ipsâ legatorum veſtrorum confeſſione recognito, eos ad judicandum cauſſam hanc, ob quam venerant, poteſtatem omninò non habere, et quod à Sanctitate veſtrâ Domino noſtro Regi conceſſum, ſcriptoque firmatum fuerat, id non tenere, Dominus noſter Rex, ultra quàm dici poſſit, irâ totus incanduit, in tantum quidem, ut ad ſolitam erga vos animi manſuetudinem vix eum noſtra etiam in commune ſupplicatio revocare potuerit. Totum itaque, quod in adventu legatorum veſtrorum conceperamus, gaudii cœpit illicò triſtitiæ nubilo ſuperduci. Ad iram hanc fortiùs inflammandam incentiva præbebant ipſa nobilium colloquia, id Domino Regi ſæpiùs inculcantia, ſibi Regnoque ſuo nulla jam adversùs Dominum Cantuarienſem ſupereſſe ſubſidia, cùm appellatio Regni dudum ad vos facta jam expiraverit, et ei legatorum veſtrorum in nullo cura ſubvenerit. Hinc apud Regni principes tanta exorta turbatio, ut, niſi juxta datam vobis ſapientiam pericula jam erumpentia providendo præcluſeritis, Chriſti veſtem ſcindi miſerrimè de proximo doleatis. Totis enim ſtudiis Dominus Cantuarienſis deſudat, ut Dominum noſtrum Regem anathemate, Regnumqe ejus interdicti pœnâ conſtringat. Poteſtatem, quam in ædificationem, et non deſtructionem eccleſiæ, ſuſcepiſſe oportuerat, ſic exercet in ſubditos, ut omnes in Regis odium, et totius Regni nobilium tentet inducere, et eorum ſubſtantiis direptionem, cervicibus gladium, aut corporibus exilium, intentè ſtudeat procurare. Crebris literis graves eis mandatorum imponit ſarcinas, quas præſens ipſe non digito movere voluit, nedum humeris ſuſtinere. Ad mortem nos invitat, et ſanguinis effuſionem, cùm ipſe mortem, quam nemo ſibi dignabatur aut minabatur inferre, ſummo ſtudio declinaverit, et ſuum ſanguinem illibatum conſervando ejus adhuc nec guttam effundi voluerit. Pro Chriſti quippè mori glorioſum eſt: in mortem verò imprudenter irrumpere, Chriſto ſcimus non placere. Libertatem prædicat eccleſiæ, quam ſe Cantuarienſi eccleſiæ viribus intrudendo ſibi conſtat ademiſſe. Regni conſuetudines frequenter improperat, quas longè aliter, quàm ſe res habeat, ſuis ſcriptis veſtræ celſitudini manifeſtat. De cætero, ſanctorum canonum authoritatem erga nos non obſervat, cùm appellantes ad vos poſt appellationem excommunicet, alios ſine citatione aut commonitione ſuſpendat; notoria, quæ nec nota nec veritate ſubnixa ſunt, aſſerat; et in hunc modum plurima, quâ poteſt poteſtate, confundat. Ad hæc, *quadra-*

ginta marcarum millia, vel ampliùs, ut ſui aſſerunt, bonæ ſuæ fidei commiſſa, Domino noſtro Regi ſolvere, vel quod juſtum eſt exhibere detrectat; et Regi ſuo negat et Domino, quod nec ethnico denegare debuerat aut publicano. Unde, ne ligent nos jam dicta gravamina, ne taciturnitate noſtrâ, et indiſcretâ quâdam conniventiâ permittamus id fieri, unde Dominum noſtrum Regem, et Regnum ejus ipſum et ſequentes populos, à veſtrâ contingat obedientiâ prorſus averti, adverſus ſuſpectas nobis D. Cantuarienſis ſententias, adverſùs mandata ejus omnia, Domino noſtro Regi et Regno ejus, perſonis noſtris et commiſſis nobis Eccleſiis et Parochiis, gravamen aliquod importantia, veſtro nos per omnia committentes conſilio et protectioni ſubdentes, ad audientiam veſtram appellavimus, et appellationi terminum diem tranſitus Beati Martini conſtituimus.

N° XIII.

Ep. xlix. *l.* i. *Alexander Papa Thomæ Cantuarienſi Archiepiſcopo.*

This refers to p. 474, 475.

QUOD minor majorem judicare non poſſit, et eum præſertim, cui jure noſcitur prælationis ſubeſſe, et obedientiæ vinculo tenetur adſtrictus, tam Divinæ quàm humanæ leges demonſtrant: et præcipuè ſanctorum Patrum ſtatutis id manifeſtiùs declaratur. Hæc ſiquidem nos, quorum intereſt errata corrigere, et ea, quæ incorrecta pernicioſum poſteris exemplum relinquerent, ſollicitâ conſideratione penſantes, attendentes etiam, quòd ex delicto perſonæ non debet eccleſia jacturam aliquam vel incommodum ſuſtinere, ſententiam ab Epiſcopis et Baronibus Angliæ, quoniam ad primam Regis citationem tui copiam non feciſti, adversùm te præſumptuosè prolatam, in quâ tibi jam dicti Epiſcopi et Barones omnia mobilia tua, tam contra juris formam, quam contra Eccleſiaſticam conſuetudinem, abjudicârunt; (præſertim cum nulla mobilia præterquàm de bonis Eccleſiæ tuæ habueris;) irritam penitùs eſſe cenſemus, et eam apoſtolicâ authoritate caſſamus, ſtatuentes ut nullas impoſterùm vires obtineat, aut tibi vel ſucceſſoribus tuis ſive Eccleſiæ tuæ gubernationi commiſſæ, aliquod impoſterùm valeat præjudicium vel læſionem afferre.

N°.

N° XIII.

MS. Cotton Fol. Claudius, B. 2. *fol.* 268.

Henrico Regi Angliæ Johannes Neapolitanus.

PLACET nobis plurimum, per omnia gratum duximus et acceptum, quod ad executionem voluntatis veſtræ noſtra ſtudia promptius advocaſtis. Nos quidem, licet abſque ſummonitione etiam veſtrâ, quotieſcunque opportunitas ſe offert, ſtudioſi ſemper ſimus, et ſolliciti elaboremus, quæcunque vobis utilia, ſive ad honorem veſtrum cognoſcimus proventura, ſicut nobis poſſibile, perficere et promovere, et contraria propenſius depellere et longius propulſare, cum etiam Magnitudinis veſtræ litteris ſollicitamur, tanto fortius accingimur, et ad complementum petitionis veſtræ accuratius præparamur; quanquam et ipſa ſummonitio veſtra et ſollicitatio plurimum placet, et voti atque deſiderii noſtri eſt, ut, quicquid poſſumus, totum ad veſtræ voluntatis arbitrium omni modo exponamus. This refers to p. 479.

Venientes igitur ad Eccleſiam Romanam honorabiles nuncios veſtros, Abbatem (videlicet) St. Auguſtini, Archidiaconum Sariſberienſem, Magiſtrum Simonem de Carcere, et Magiſtrum Henricum, cum literis veſtris, quas Excellentia veſtra per ipſos nobis tranſmiſit, honorificè et lætè recipimus. Attentè atque ſollicitè veſtra beneplacita et ſignificata intelleximus, dedimuſque cum eis operam ſtudioſam, et exactam diligentiam adhibuimus, quod Dominus noſter primam petitionem veſtram, vel ſaltem ſecundam executioni mandaret. Ut vero omnis conatus noſter omneque ſtudium et argumentoſa ſollicitudo caſſo labore defecit, nihilque obtinere potuit de hiis quæ juxta petitionis veſtræ tenorem poſtulavit, viſum nobis et complacuit quod ad aliud remedium noſtra ſtudia converteremus.

Rogavimus igitur, et, licet cum multâ inſtantiâ, impetravimus tum tales literas à Domino Papâ, per quas temeraria præſumptio et indiſcreta audacia Cantuarienſis Archiepiſcopi repreſſa et conculcata creditur, et vobis aliquatenus cognoſcitur pro qualitate temporis ſatisfactum. Præfati vero nuncii veſtri, qui, ſicut induſtrii et probi viri vobiſque fideliſſimi, curare executionem mandati ſtudioſiſſimi extiterunt, cum pro certo noviſſent, quod nullo modo aliquam de petitionibus veſtris obtinere valerent, ad conſilium et exhortationem noſtram, et quaſi compulſionem, receperunt literas illas, quas Dominus Papa per eos vobis mittit. Quamquam enim

plurimum pertimerent et formidarent illas recipere, quià hoc de mandato veſtro non habebant, inducti tamen et compluſi a nobis, ſicut diximus, quod liquido cognovimus nullatenus expedire quod his temporibus literas tales dimitterent, aſſenſum præbuerunt admonitioni noſtræ. Nos itaque, quia honorem veſtrum puro corde et animo diligimus, et voluntati veſtræ in omnibus pro poſſe noſtro obtemperare deſideramus, laudamus vobis atque conſulimus, quatenus recipientes recipiatis, et gratum ducatis quod Dominus Papa ad præſens vobis concedit, ſcientes et nullatenus dubitantes, quod, ſi creditis ſuggeſtioni noſtræ quam per præfatos nuncios veſtros vobis aperimus, Cantuarienſis ille videns ſe omni deſtitutum auxilio, et cognoſcens certiſſimè quod ad regimen Cantuarienſis Eccleſiæ non valeat ulterius aliquâ ratione redire, et ipſe ſpontaneus abrenunciabit, et in aliâ eccleſiâ, ubi vivere poſſit, ſibi provideri ſuppliciter exorabit.

N° XV.

Injunctions ſent over from King Henry II. *Ann. Dom.* 1169. Cod. Cotton, *MSS.* Claudius, B. ii. p. 27.

This refers to p. 527.

1. SIQVIS inventus fuerit literas ferens Domini Papæ, vel aliquod mandatum Archiepiſcopi Cantuarienſis, continens interdictum Chriſtianitatis in Angliâ, capiatur, et *de eo ſine dilatione juſtitia fiat ſicut de traditore Regis et Regni.*

2. Nullus Clericus, vel Monachus, vel Converſus, vel alicujus Converſionis, permittatur transfretare vel redire in Angliam, niſi de tranſitu ſuo habeat literas Juſtitiæ, et de reditu ſuo literas Domini Regis. Si quis aliter inventus fuerit agens, capiatur et incarceretur.

3. Ne aliquis appellet ad Papam vel Archiepiſcopum.

4. Ne aliquod placitum teneatur de Mandatis Papæ, vel Archiepiſcopi, vel *aliquod Mandatum illorum in Angliâ ab ullo homine accipiatur.* Si quis inventus fuerit aliter agens, capiatur et incarceretur.

5. Generaliter quoque interdictum eſt, quod nullus ferat aliquod Mandatum clerici vel laici Domino Papæ, vel Archiepiſcopo. Si quis inventus fuerit, capiatur et incarceretur.

6. Si Epiſcopi, vel Clerici, vel Abbates, vel Laici, ſententiam interdicti tenere voluerint, ſine dilatione de terrâ ejiciantur, *et tota eorum cognatio,* ita quod de catallis ſuis nihil ſecum ferant.

7. Ut

7. Ut Catalla omnium Papæ vel Archiepiſcopo faventium, et omnes poſſeſſiones eorum, *et omnium eis pertinentium, cujuſcumque gradus, vel ordinis, vel ſexus, vel conditionis ſint*, capiantur, et in Dominicâ manu D. Regis confiſcentur.

8. Ut omnes Clerici, qui reditus habent in Angliâ, ſint ſummoniti per omnes Comitatus, ut infrà tres menſes veniant in Angliam ad reditus ſuos, ſicut diligunt reditus ſuos; et, ſi non venerint ad terminum ſtatutum, reditus in manu Regis capiantur.

9. Ut denarii Beati Petri non reddantur ulterius Apoſtolico, ſed diligenter colligantur, et ſerventur in Theſauro Regis, et expendantur ad ejus præceptum.

There is a tenth article concerning the Biſhops of London and Norwich, which I have not tranſlated in my Hiſtory; becauſe, from letters written at that time, I have reaſon to believe it was added afterwards. It runs in theſe words. "Lundonienſis et Norvicenſis Epiſcopi ſint in miſericordiâ Regis, et ſummoneantur per Vice-comites et Bedellos, ut ſint contrà Regis Juſtitias ad rectum faciendum Regi et Juſtitiis ejus dè eo, quod contrà ſtatuta de Clarendune interdixerunt ex Mandato Papæ terram Comitis Hugonis, et excommunicationem, quam D. Papa in ipſum fecerat, per ſuas Parochias divulgaverunt ſine licentiâ Juſtitiarum Regis."

N° XVI.

MS. Cotton Claudius, B. ii. fol. 288.

Alexander Papa Rogero Eboracenſi Archiepiſcopo.

QUANTA per chariſſimum filium noſtrum, Henricum illuſtrem Anglorum regem, ampliora incrementa et commoda in hujus neceſſitatis articulo Eccleſiæ Dei perveniſſe noſcuntur, et quanto nos eum pro ſuæ devotionis conſtantiâ majori affectione diligimus et cariorem in noſtris viſceribus retinemus, tanto ad ea quæ ad honorem, incrementum, et exaltationem ipſius et ſuorum cognoſcimus pertinere promptius aſpiramus. Inde eſt utique, quod ad ejus petitionem dilectum filium Henricum primogenitum filium ſuum, coronandum communicato fratrum noſtrorum, conſilio, *ex auctoritate Beati Petri ac noſtrâ concedimus in Anglia cornandum.*

This refers to P. 540, 545.

nandum. Quoniam igitur hoc ad officium tuum pertinet, Fraternitati tuæ per Apoſtolica ſcripta mandamus, quatenus, cum ab eodem filio noſtro Rege propter hoc fueris requiſitus, coronam memorato filio ſuo *ex auctoritate ſedis Apoſtolicæ* imponas, et nos quod a te exinde factum fuerit ratum ac firmum decernimus permanere. Tu vero debitam ei ſubjectionem et reverentiam, *ſalvo in omnibus Patris ſui mandato*, exhibeas, et alios ſimiliter commoneas exhibere.

N° XVII.

Chron. Gervaſe, Fol. 1410, l. 50.

This refers to P. 547.

INPRIMIS inquiratur de vice-comitibus et ballivis eorum, quid vel quantum acceperint de ſingulis hundredis, et ſingulis villatis, et ſingulis hominibus, poſtquam Rex noviſſimè transfretavit in Normanniam, unde terra vel homines gravati ſunt; et quid acceperint per judicium comitatus vel hundredi, et quid ſine judicio. Et quod inquiſierint captum eſſe per judicium ſcribatur ſeparatim, et quod ſine judicio, ſimiliter ſeparatim ſcribatur, et de omnibus priſis inquirant cauſam et teſtimonium.

Similiter inquiratur quot et quas terras vicecomites vel ballivi eorum emerint vel invadiaverint.

Similiter inquiratur de Archiepiſcopis, Epiſcopis, Abbatibus, Prioribus, Comitibus, Baronibus, Vavaſoribus, Civibus, Burgenſibus, et eorum ſeneſchallis, præpoſitis, et miniſtris, quid vel quantum acceperint per terras ſuas, poſt terminum ſupradictum, de ſingulis hundredis ſuis vel villatis, et de ſingulis hominibus ſuis, per judicium vel ſine judicio. Et omnes priſas et cauſas et occaſiones eorum ſcribant ſeparatim.

Similiter inquiratur de omnibus illis qui poſt terminum illum habuerunt aliquot bailias de rege in cuſtodia, ſive de Archiepiſcopatu, ſive de Epiſcopatu, ſive de Abbatia, vel de Baroniâ, ſive de Honore aliquo vel aliqua eſchaeta, quid et quantum in bailia illa adquiſierint.

Similiter inquiratur de bailivis regis, qui per terram ſuam erraverunt pro negotiis regis faciendis, quid eis datum ſit.

Et de catallis fugitivorum pro aſſiſa de Clarendune, et de catallis eorum qui per aſſiſam illam perierunt, inquiratur quid actum ſit, et quid inde exierit de ſingulis hundredis, et ſingulis villatis, et ſingulis hominibus. Et inquiratur an aliquis in aſſiſa illa injuſte rectatus fuerit, pro præmio, vel promiſſione, vel odio, vel aliquo modo injuſto; et an aliquis de rectatis relaxatus fuerit, vel reverſus, pro præmio, vel promiſſione, vel

amore; et quis inde præmium acceperit. Et inquiratur de auxilio ad maritandam filiam regis, quid inde exierit de ſingulis hundredis, et de ſingulis villatis, et de ſingulis hominibus, ſive in redditis, ſive in pardonis, et cui illud traditum et liberatum fuerit. Et inquiratur quid et quantum acceperint foreſtarii et bailivi, et miniſtri eorum, poſt terminum ſupradictum, in bailiis ſuis, quocumque modo illud acceperint, vel quacumque occaſione: Et ſi quid pardonaverint de rectis Domini Regis pro præmio, vel promiſſione, vel amicitia alicujus: Et de forisfactis foreſtarum, et de hiis qui in foreſtis ſuis forisfecerunt de cervis et biſſis, et aliis beſtiis ſalvagiis: Et ſi foreſtarii vel bailivi eorum aliquem acceperint vel attacaverint [leg attachiaverint] per vadium et per plegium, vel rectaverint, et poſtea ſine juſticia per ſe relaxaverint. Et qui hæc fecerint, inquirantur et inbrevientur. Et omnes qui rectati fuerunt de quocumque recto ponantur per vadium et per plegium, quod ſint coram Domino Rege die quem eis ponet, et quod rectum facient, et adretiabunt ei et hominibus ſuis quod adretiare debuerint: et quibus plegii defuerint cuſtodiantur.

Et inquiratur ſi vicecomites, vel quicumque bailivi eorum, vel Domini Villarum, vel bailivi eorum, aliquid reddiderint de hiis quæ acceperant, vel ſi pacem aliquam cum hominibus fecerint poſtquam audierunt adventum Domini Regis, pro diſturbare, ne inde ante Regem vel Juſticias querimonia veniret.

Et de amerciatis inquiratur, ſi aliquis relaxatus fuerit pro præmio, vel amore, de hoc quod primo fuit amerciatus; et per quem hoc factum fuerit. Et ſimiliter inquiratur per omnes Epiſcopatus, quid et quantum et qua de cauſa Archidiacani vel Decani injuſte et ſine judicio ceperint; et hoc totum ſcribatur. Et inquiratur qui debent Regi homagium, et nondum fecerunt neque illi neque filio ſuo, et inbrevientur.

The Preamble to this runs thus.

Rex autem, convocatis optimatibus ſuis, inſtituit abbates et clericos, comites, et milites, qui circuierent terram, dans formam inſcriptam, quomodo eis eſſet agendum. In Cantiam, Suthreiam, et Middelſexe, et Berkeſcire, et Oxenefordſcire, et Bukingehamſcire, et Bedefordeſcire miſſi ſunt Abbas Auguſtini Cantuariæ, Abbas de Chertеſcie, Comes de Clara, Wilhelmus de Abrancis, Maneſier de Dammartin, Geroldus filius Radulfi, Gilebertus de Pinkeni, Wilielmus filius Helt, Willielmus filius Nigelli, Willielmus filius Martini, Radulfus de Hoſpitali, Radulfus de Dene. Hi omnes ſimul ſupradictos comitatus circuierunt. In hunc modum per alios comitatus Angliæ inquiſitores miſſi ſunt. Et hæc inquirere debuerunt.

Poſtea

Poſtea capient ſacramentum ab omnibus Baronibus, militibus, et liberis hominibus de Comitatu, et cæteris hominibus, et ab omnibus Civibus et Burgenſibus, quod verum dicent de hoc quod ab eis inquiretur ex parte Domini Regis, et quod non celabunt veritatem neque pro alicujus amore, nec prece, nec pretio, nec timore, nec pro aliquâ promiſſione, nec pro ullâ re.

N° XVIII.

Ex Epiſtolis S. Thomæ Cantuar. Edit. apud Bruxell MDCLXXXII. *Epiſt.* XL. *lib.* IV.

Thomas Cantuarienſis Archi-epiſcopus Roberto Vigornenſi Epiſcopo.

This refers to P. 553.

VIR illuſtris Robertus Comes Glouceſtriæ, Pater veſter, cum plures haberet filios, vos ampliori præ cæteris affectu traditur dilexiſſe, eò quòd vos in ſenectute genuerit, et totum, prout indoles pollicebatur, prudentiæ ſuæ et virtutum fomitem, Dei coöperante gratiâ, transfudit in ſobolem, quam utpotè pretioſiſſimam ab ineunte ætate Domino conſecravit. Intuemini, quam prudens, quàm fidelis, quàm magnanimus, quâm conſtans fuerit ille, qui florentis, pugnacis, gratioſi, generoſi Regis, et opulenti, ejuſdemque Normannorum Ducis, et Boloniæ Comitis, vires aggreſſus oppreſſit: et non modò Regno privatum, ſed et captivum, conjecit in vincula, adeoque fortunam indignantem, habitâ fidei et virtutis ratione, contempſit, ut pro reparandâ ſacramenti religione nulla exhorruerit ſubire pericula; et tandem captus incarcerari maluerit, quam ſoror ejus et Domina juris ſui diſpendium pateretur. Qui, licet invidiâ fortunæ captus fuerit, vinculatus tamen judicio ſapientum tantus habitus eſt, ut liberationem ejus commutandam et emendam cenſuerint Rege et Regno. Contemplatio viri clariſſimi vobis adjiciat animos; et eum, qui vos generoſi ſanguinis titulo illuſtravit, coætaneis et poſteris repræſentate moribus et virtute. Huc accedit colendæ virtutis nobilior titulus, pontificalis apex, qui ſicut epiſcopale officium fideliter adimplentes ampliori gloriâ et honore coruſcantes illuſtrat, ſic timidos et ignavos abjectiori vilitate reddit inglorios. Sal enim infatuatum ad nihilum utile eſt, ſed tantâ abjectione vileſcit, ut nec ſtercoribus comparetur, quibus agrorum infœcunditas propulſatur. Nam ut ait Martyr Cyprianus, *Epiſcopus ſi timidus eſt, actum eſt de eo: actum*, inquit, quia cùm ipſum timor mundanus effœtum reddiderit,

ſupereſt

ſupereſt ut ad omnia ſalubriter agenda inutilis ſit. Charitas ergo timorem hunc expellat, ut populi ducem expediat, quia deficientis timore ducis exhortatio nequaquàm militum poteſt animos ad fortia roborare. Et quidem nutu divino credimus accidiſſe, ut vos, ad propulſandam matris veſtræ, ſanctæ ſcilicet Cantuarienſis eccleſiæ, injuriam, diebus his contigerit transfretare, quo præſentialiter reſiſtere poſſitis eis, ſicut nobis promiſiſtis, qui eam gratis diutiùs afflixerunt, adhuc ſine cauſâ quærunt animam ejus, ut auferant eam.

Quod ut, Dei præeunte gratiâ, commodiùs facere valeatis, vos literis Domini Papæ, tanquàm armis bellicis, præmuniendos eſſe decrevimus, ut fratrum noſtrorum corda poſſitis efficaciùs in Domino confirmare. Rogamus itaque et obſecramus in Domino Jeſu Chriſto, et in virtute obedientiæ, et in periculo officii, honoris, et beneficii præcipimus, quatenùs literas Apoſtolicas, quas vobis mittimus, oſtendatis venerabili fratri noſtro Rogerio Eboracenſi Archiepiſcopo, et aliis fratribus et Coepiſcopis noſtris, et inhibeatis authoritate Domini Papæ, ne præfatus Eboracenſis filio Domini Regis conſecrationis munus dare, aut coronam, ſi hoc ab eo petitum fuerit, præſumat imponere. Sub eâdem interminatione præcipimus, ut ſimiliter hoc inhibeatis Epiſcopis Londonienſi et Sareſberienſi, et cæteris, ſi quis hoc auſus fuerit attentare. Hoc autem, Deo teſte et judice, non in Domini Regis, aut filii ſui, aut cujuſcumque vel Eccleſiæ vel Perſonæ, ex conſcientiâ noſtrâ mandamus injuriam, ſed ex neceſſitate, quâ cogimur Eccleſiæ Cantuarienſis jura pro viribus conſervare. Parati enim ſumus, ſi Domino Regi placuerit, filium ſuum coronare pro debito officii noſtri, et utrique honorem debitum et reverentiam exhibere. Non vacillet in his implendis, frater chariſſime, fides veſtra, quia fidelis eſt Deus, qui vos ſupra vires tentari non patietur.

Confidite ergo in ipſo qui vicit mundum, et memineritis quoniam qui timet pruinam irruit ſuper eum nix, et qui declinat arma ferrea frequenter incidit in arcum æneum. Degeneres animos timor arguet, et fortiter auſos juvabit gratia, gloria coronabit. Quidquid agant alii, nobis perſuaſum eſt, quòd conſtantiam veſtram nullius turbinis impetus franget, quod quæ de oré veſtro proceſſerunt, et tam veſtro quàm Epiſcopi Lexovenſis ſcripto continentur, et ſub utriuſque charactere impreſſa ſunt et expreſſa, non erunt irrita. Abſit enim ut generoſus ſanguis ſit animæ degenerantis habitaculum, ut per vos tituli patrum obliterentur, ut quæcunque trepidatio mentis, aut ignavia operis, evincat Patris, qui vos omnibus liberis prætulit, erraſſe judicium, et antiquæ charitatis excludat affectum. Nam, ut piè creditur à fidelibus, ille feli-

ciùs in Deo, quam in liberis vivit, et ſtudioſis operibus aut reprobis gratiam ejus promereri poteſtis aut demereri.

N° XIX.

Epiſt. xi. l. 5.

Thomæ Cantuarienſi Archiepiſcopo quidam Amicus.

This refers to p. 554, 555. B. 3.

REX primâ Dominicâ die Londoniis debet eſſe, eoque Archiepiſcopum Eboracenſem, omneſque Angliæ Epiſcopos et Barones, ad diem illam, ex omnibus terræ partibus convocavit. Sane eâ die coronabit filium Regis Eboracenſis, uxòre ejus, filiâ ſcilicet Regis Francorum, apud Cadomum derelictâ, et quaſi repudiatâ, in contumeliam Patris et contemptum. Coronabitur certè puer ille quem diximus, niſi Dominus mare clauſerit navigare volenti, vel manus contraxerit Eboracenſi, vel niſi Rex Francorum aliquo prohibitionis modo inhibuerit. Puer enim properat ad mare, et a patre expectatur in adverſo littore. Et, de mandato Regis, Baiocenſis et Sagienſis cum puero vadunt. Ricardus de Humet non ibit. Regina Cadomi morabitur, donec gaudii hujus certitudinem acceperit. Literæ ergo Domini Papæ ſuper prohibitione conſecrationis hujus diu eſt quod mare tranſierunt; ſed inutiles prorſus effectæ in manu illius cui traditæ ſunt perierunt, nec alicui oſtenſæ, nec ullatenus propalatæ. Quid igitur proſunt quæ ſic occultantur, per quas nec coronæ impoſitio nec perſonæ unctio ceſſabit? Certiſſimè enim ſciatis hoc ſine dilatione futurum. Etſi non auderet Eboracenſis, manus cruentas apponeret *carnifex* Sagienſis. Hoc autem fit contra vos, ut nec diutiùs liceat etiam ſperare de pace, cui non ſolùm pax differtur, ſed tota ſpes pacis et reconciliationis aufertur. Dixit enim nobis Richardus de Welceſtre, qui pro accelerando tranſitu pueri venit, alterâ die, uſque Cadomum, et ſtatim reverſus eſt cum illo; dixit, inquam, ille, quod pacem veſtram omnibus modis differret, et ſi aliter non poſſet, non ſolùm Domino Papæ, ſed etiam ipſi Deo inobediens Rex uſque ad mortem exiſteret, ante quàm vobiſcum pacem haberet. Nolite ergò ſperare in iniquitate, nec Templariis illis credite, qui non ambulant in ſimplicitate, ſed Regis potiùs, quam veſtram voluntatem exequi cupientes, vobis nihil aliud quàm mendacia, de Rege et Patre mendacii, adferunt, ut decipiant. Quicquid enim Rex agit vobiſcum dolus eſt et nequitia. Sed, ut pace veſtrâ loquar, ſtultum decipit verbis

verbis inanibus, ut interim ſibi magis provideat, et de tractu temporis contra vos majores inſidias paret, et laqueos præparet fortiores. *Quid igitur facies, hominum miſerrime, ſi tibi fuerit ſub temporis brevitate ſubſtractum ad quod tantis temporibus ſuſpiraſti: ſi per alium Rex fuerit affectus qui non niſi per te regnare debuerat?* Immo quid facies, ſi inimicus tuus Regem tibi conſecravit inimicum, ut contra te, in Patris auxilium, quantò junior, tantò fortior, manus inſurgat? Verùm quid faciet Rex ipſe Francorum, cujus ita filia contemnitur, cui regnum aufertur, cujus ſperanda poſteritas condemnatur? Cur enim ejus filius, qui adhuc ei fortaſſè naſcetur, Regni gloriam conſequeretur, ſi ipſa modò coronæ indigna judicatur? Forſitan non movebitur Rex ille nimiùm juſtus, nec ſuum filiæque contemptum vindicabit, ſed magis in ſuâ juſtitiâ peribit. Moderatè loquor in Chriſtum Domini, ſed tamen pro nihilo ei coronam Franciæ deferet qui coronam Angliæ tam facilè aufert. Unicum ergò et ſingulare ei et vobis remedium eſt, ut, ſine omni dilatione, ad Reginam et ad Richardum de Humet nuncios mittat, qui ex ſuâ parte prohibeant ne fiat, et, ſi factum fuerit, ab utroque cum diffiduciâ ſeparentur. Sic enim territi Richardus et Regina mittent ad Regem, et Regis impedietur voluntas. Nuncius enim Regis Francorum, vel veſter, nullus poſſet ad Regem noſtrum accedere. Et, ſi literas Domini Papæ deferret, mitteretur in carcerem; ſi Regis Franciæ, teneretur honeſtè, ſed non procederet, donec negotium ad aures Regis perveniret. Currite ergò ſtatim ad Regem, et advocate Senonenſem, ut aliquod opponatur obſtaculum huic operi, quod, in Perſonæ Regis contemptum, et in cauſſæ veſtræ præjudicium, noſcitur agitari. De cætero ſciatis Thomam, novum Archidiaconum Bathonenſem, nuper à Rege ad Archiepiſcopum Rothomagenſem veniſſe, et à Nivernenſi Epiſcopo tranſeundi inducias impetraſſe uſque ad ſequentem Dominicam. Publicè enim Thomas ille clamavit, et multi alii quotidiè clamant, Regem in proximo eſſe venturum: Quod penitùs eſt falſiſſimum. Per Epiſcopatus ergò et Abbatias, et per domos Regias, uſque ad montem S. Michaëlis formicino gradu Nivernenſis incedit, et qui in terrâ ſuâ quindecim eſſet contentus, triginta ſex equitaturas adducit. Dicitur ergò, quod magis ſitit pecuniam Regis, quàm pacem Regni; magis lucrum ſuum, quàm commodum veſtrum. Et res ſatis manifeſtis indiciis declaratur. Sextâ enim feriâ poſt octavum Pentecoſtes venit Cadomum, unde tunc filius Regis exierat, cum quo Nivernenſis optimè, ſi vellet, tranſire potuiſſet. Sed dicitur ei Regem citò eſſe venturum, aut navem Regiam venturam propter ipſum. Et ſic homo ille, mores gentis veſtræ penitùs ignorans, fallaciis capitur, nec in manu ejus verbum Domini proſperatur. Verùm,

ſi aſtutias iſtas intelligeret, ſi concito gradu ad mare properaret, oporteret Archiepiſcopum præire, et iſtum Regis reſponſum expectare. Et, ſi omninò vellet tranſire, navem quidem et inſtrumenta navis inveniret, ſed gubernator nullus appareret. Singuli enim fugerent, vel ſe nihil ſcire dicerent, vel ventum penitùs eſſe adverſum jurarent. Stultus ergò fuit, ſi veniendi per vos voluntatem habuit, qui per Flandriam ire diſpoſuit. Statim ergò literas Regis, et literas Senonenſis, et nuncium veſtrum, ad Nivernenſem dirigite, ut cum omni celeritate Réginam Cadomi morantem conveniat, quatenùs ei tranſitum paret. Quæ ſi noluerit ob manifeſtam impoſſibilitatem, idem Epiſcopus ad vos revertatur, facturus citiùs quod facturus eſt. *Nolite enim de cætero parcere, ſed totum ſpiritum effundite, totum gladium evaginate, quoniam non reſpiciet vos oculus Regis uſque in ſempiternum.* Reſpiciat autem ſuper vos et ſuper oves paſcuæ ſuæ oculus Pietatis Divinæ, et magis de principibus victoriæ gloriam, quàm principum pacem non veram, Eccleſiæ ſuæ conferre dignetur. Valete. Et, ſi adverſitas increbuerit, nolite timere, quia Dominus ſupponit manum ſuam.

N° XX.

Ep. xlv. *l.* v. *Alexandro Papa Thomas Cantuarienſis Archiepiſcopo.*

Sereniſſimo Domino et Patri Chariſſimo, Alexandro Dei gratiâ ſummo Pontifici, Thomas S. Cantuarienſis Eccleſiæ miniſter humilis, ſalutem et omnem cum ſumma devotione obedientiam.

This refers to p. 563, 591. B. iii.

MISERATIONIS oculo reſpexit Deus Eccleſiam ſuam, et tandem triſtitiam ejus in lætitiam commutavit. Nec dubium, Pater, quin, ſi nobis vera dicentibus ab initio fuiſſet creditum, cornua retunderentur eorum, qui ventilabant, conterebant, et variis plagis vulnerabant Eccleſiam, ut, exterminatâ prorſus libertate ejus, et evacuatâ authoritate Divinæ Legis, vigerent conſuetudines *aut potiùs abuſiones veterum tyrannorum*, Romanus Pontifex neſciretur in Anglia, et ſponſæ Chriſti privilegia ſine reparationis ſpe delerentur. Ecce enim ad noviſſimas literas veſtras, quibus Domino Regi Anglorum innotuit, quod ei ulteriùs non parceretis, ſicut nec peperciſtis Frederico *dicto Imperatori*, cum intellexiſſet terram ejus, amotis omnibus ſubterfugiis, interdicto ſubjiciendam

esse, et Episcopos, si qui fortè non obedirent, suspendendos et excommunicandos, illicò nobiscum pacem fecit, ad honorem Dei, et maximam, ut speramus, Ecclesiæ utilitatem. Nam de consuetudinibus, quas tantâ pertinaciâ vendicare consueverat, nec mutire præsumpsit: Nullum à nobis vel aliquo nostrorum exegit juramentum. Possessiones, quas occasione dissensionis hujus ecclesiæ nostræ abstulerat, prout eas in chartulâ expresseramus, nobis concessit: pacem, et securitatem, et reditum, omnibus nostris promisit, et osculum, si tamen vellemus eum eatenus perurgeri: *ut non modò in omnibus articulis victus appareret, sed ut perjurus diceretur ab hiis, qui audierant ipsum juravisse, quòd non erat nos eâ die in osculo recepturus.* Nos autem, habito plurium sapientium consilio, et maximè Domini Senonensis, qui pacem nostram cæteris sollicitiùs et efficaciùs procurabat, cum ipso ad colloquium Regis accessimus, quem, Deo faciente, qui omnes illos amoverat qui sanctitatem vestram variis dolis circumvenire soliti sunt, adeò mutatum invenimus, ut, quod sine circumstantium admiratione non contigit, animus ejus in nullo videretur à quietis consiliis abhorrere. Nam, ut nos procul adventantes conspexit, à circumfusâ turbâ exiliens occurrit properus, et, capite detecto, nos in salutationis verba prorumpere gestientes salutatione prævenit, et habitis paucis sermonibus, solis nobis præsentibus cum Domino Senonensi, nos, illo divertente, stupentibus universis, traxit in partem, et diu tantâ familiaritate collocutus est, ut videri posset, nunquàm inter nos aliquam fuisse discordiam. Omnes ferè, quotquot aderant, lætissimâ admiratione stupentes, plurimorum genis lacrymarum imbre madentibus, glorificabant Deum, et benedicebant beatam Magdalenam, in cujus solemnitate Rex conversus est à viis pristinis, ut toti terræ suæ lætitiam reformaret, et ecclesiæ redderet pacem. Corripuimus eum, adhibitâ moderatione quam oportuerat adhiberi, vias quibus incesserat, et pericula quæ undique imminebant patenter ostendimus. Rogavimus et monuimus ut rediret ad cor, ut dignos fructus pœnitentiæ faciens, et Ecclesiæ, quam non mediocriter læserat, manifestâ boni compensatione satisfaciens, purgaret conscientiam, et redimeret famam: Nam ab iniquis consiliariis potiùs, quàm à propriæ voluntatis instinctu, grave utriusque dispendium patiebatur. Cùm autem hæc omnia, non modò patienter, sed et benignè, audiret, et emendationem promitteret, adjecimus sibi necessarium esse ad salutem, et liberis suis ad incolumitatem et indemnitatem concessæ divinitus potestatis, ut in eo Sanctæ Cantuariensi Ecclesiæ, Matri suæ, diligentiùs satisfaceret, in quo eam nuper gravissimè læserat: Nam filium suum, contra jus antiquissimum Ecclesiæ nostræ, fecerat enormiter corona-

ri,

ri, uſurpatione Archiepiſcopi Eboracenſis, qui contra vetuſtiſſimam conſuetudinem, et poſt prohibitionem veſtram, et etiam in alienâ provinciâ, conſecrationem hanc exequi cæcâ nimis et temerariâ ambitione præſumpſit. In quo ille paululum reluctans, proteſtatus tamen ante, ſe nihil proponere vel propoſiturum eſſe animo contendendi, Quis, inquit, coronavit Regem Wilhelmum, qui ſibi Angliam ſubjugavit, et Reges ſuccedentes? Nonne Eboracenſis, aut alius Epiſcopus, prout illi placebat qui coronandus erat in Regem? Ad quæ nos, quod ex celebri gentis noſtræ claret hiſtoriâ, reſpondimus, quod, eo tempore quo Anglia capta eſt a Normannis, Cantuarienſis Eccleſia proprium non habebat Antiſtitem, ſed quaſi captiva tenebatur à quodam Stigando, qui illam, ſicut et Vintonienſem, et Londonienſem, et Vigornenſam, et Elienſem Eccleſiam, publicæ poteſtatis et amicorum viribus, contra inhibitionem Romani Pontificis, occupaverat, Apoſtolicæ ſedis communione carens et gratiâ. Unde, et de mandato ejus à præfato Rege captus in carcere diem obiit. Quâ neceſſitate tunc, quod nec ante, nec poſt, lectum eſt vel auditum, Archiepiſcopus Eboracenſis, qui clarioris erat opinionis, illi Regi coronam impoſuit. Lanfrancus verò filium ejus, Regem Wilhelmum, cognomento et colore Rufum, conſecravit in Regem, præſente Thomâ Eboracenſi Archiepiſcopo, nec in eo ſibi officio aliquid vendicante. Poſt cujus obitum, cùm ſanctus Anſelmus Cantuarienſis Archiepiſcopus exularet, ex eâdem cauſſâ, quâ et nos, unus ſuffraganeorum Cantuarienſis Eccleſiæ, S. Girardus Herefordenſis, vice Archiepiſcopi ſui tunc abſentis, Regem Henricum, non contradicente Archiepiſcopo Eboracenſi, conſecravit. Revertente autem ab exilio Beato Anſelmo, acceſſit ad eum Rex Henricus, tradens ei diadema, et rogans ut eum coronaret, nec imputaret illi quòd ipſum, neceſſitate Regni præpediente, non expectaverat. Fatebatur enim coram omnibus hanc eſſe Cantuarienſis Eccleſiæ dignitatem, ut Anglorum Reges inungat et conſecret. Et hac quidem ſatisfactione placatus Sanctus Archiepiſcopus approbavit quod à ſuffraganeo ſuo factum fuerat, et Regi Coronam impoſuit. Quarè ergo tunc ſiluit Eboracenſis Archiepiſcopus, et ſibi Cantuarienſis Eccleſiæ ſuffraganeum præferri ſuſtinuit? Nunquid Thomas Senior, qui Eboracenſem regebat Eccleſiam, et Lanfranco Cantuarienſi, de literis et amicorum copiâ intumeſcens, multos labores texuit, et Eccleſiam ſuam ampliavit in plurimis, hæc obmutuiſſet, pauperi cedens Epiſcopo, niſi ſibi de Archiepiſcopi Cantuarienſis Primatu et Dignitate conſtaret? Deinde, poſt triginta et ſex annos, Regem Stephanum, prædeceſſorem veſtrum, à deceſſore noſtro Wilhelmo fuiſſe conſecratum, præſente Thurſtano Eboracenſi

Eboracenſi Archiepiſcopo, nec ſe immiſcente negotio, aut contradicente, certo certius eſt. Quo poſt novem et decem annos in fata collapſo, bonæ memoriæ Theobaldus Cantuarienſis Archiepiſcopus, qui, pro veſtrâ promotione, cum ſuis omnibus, labores innumeros, damna irreparabilia, et pericula plurima, memoratu et relatu horrenda, ſuſtinuit, et Regnum, quod in aliam familiam jam tranſierat, Avi veſtri liberis reſtituit, vos inunxit et coronavit in Regem, præſente iſto Eboracenſi Rogerio qui nunc eſt, et, ut ſcitis, nec coöperante nec contradicente, nec aliquid agente, niſi eo modo quo minimus Epiſcoporum, ſacris indutus veſtibus, audiens intererat ſolemnitati. Cùm ergo tantâ facilitate animi, aut potius conſiliariorum veſtrorum pravitate, matrem veſtram, Cantuarienſem Eccleſiam, ſine cauſſæ cognitione, jure antiquo ſpoliaſtis, quod pluſquàm octuaginta annis inconcuſſè poſſediſſe dignoſcitur, nunquid perpetuare voluiſtis inimicitias inter Eccleſiam et Liberos veſtros? Aut, ſi tantum præſumptionis Eboracenſi Archiepiſcopo fuerat indulgendum, ut novo Regi munus conſecrationis impenderet, cur provinciam ſuam excedens invaſit noſtram? cur tam ipſum, quàm ſuffraganeos noſtros, in crimen inobedientiæ impuliſtis? Receperant enim inhibitionem Domini Papæ, ne hoc in abſentiâ noſtrâ aliquo modo præſumerent. Denique, ſi ſubſtitutionem filii et conſecrationem properabatis impleri, cur eos, quos ab ore Summi Pontificis nominatim, et à nobis, excommunicatos eſſe conſtabat, à tanti ſacramenti ſolemnitate non curaſtis excludere? Nunquid conſecratio ſine participio execrationis non videbatur implenda? His, et pluribus aliis ad hunc articulum pertinentibus, quæ temporis brevitas non admittit, diligenter et modeſtè propoſitis, rogavimus attentiùs, ut hujus læſionis noſtræ jacturam, pro amore Dei, et ſalute ſua, et liberorum indemnitate, repararet, et tantæ præſumptionis emendaret exceſſum. Ille verò ſe de mandato veſtro, quod pridem obtinuerat, adverſùs hanc petitionem noſtram tutum eſſe reſpondit, et ſuper hoc literas protulit, quibus conſtitit Epiſcopis celebraturis hoc munus ſibi indultum eſſe, ut filium ſuum faceret à quocunque vellet Epiſcopo coronari. Ad quod ei reſpondentes ſupplicavimus, ut reduceret ad animum quando et quarè literas impetraſſet, quibus ſuum et Epiſcoporum defendere nitebatur exceſſum. Conſtabat enim eas, quando Cantuarienſis Eccleſia vacabat, eo propoſito fuiſſe impetratas, ne Eboracenſis Archiepiſcopus, ſi præfatam Cantuarienſem Eccleſiam diutiùs vacare contingeret, ad innovandi Regis coronationem præ cæteris provinciæ noſtræ Epiſcopis auderet aſpirare. Et ut, Domine mi Rex, hæc fideliùs et familiariùs recollatis, nonne tunc palam ſolebatis aſſerere, quod filium veſtrum malletis decollari, quàm ut ſæpè dictus Eboracenſis capiti ejus

hæreticas

hæreticas manus imponeret? Certum verò eſt qùod priori mandato per poſterius derogatur. Eſto ergo quod tunc tales literas impetraveritis, noſtræ verò, quia poſteriores ſunt, illis debuerant derogaſſe: unde conſtat vobis, et aliis ſapientibus, cujus momenti habendum ſit quod contra jus uſurpatum eſt, præſertim cùm Regis conſecratio, ſicut et alia ſacramenta, de jure cauſſam habeat, et totam ſubſtantiam nanciſcatur. Neque hæc dicta videantur, qùod degradari velimus filium veſtrum, aut in aliquo minorari; quia ſucceſſus ejus et ampliationem gloriæ exoptamus, et ad eam laborabimus modis omnibus in Domino; ſed ut indignationem Dei, et ſanctorum, qui in Cantuarienſi Eccleſia requieſcunt, et graviter injuriati ſunt, a vobis et ab illo pariter arceatis. Quod fieri poſſe non credimus, niſi per condignam ſatisfactionem; quia à ſæculis inauditum eſt, quòd aliquis Cantuarienſem Eccleſiam læſerit, et non ſit correctus aut contritus à Chriſto Domino. Subintulit ergo Rex, vultu hilari et voce jucundâ: *Si filium meum diligitis, duplici jure facitis quod debetis. Nam et ego vobis illum dedi in filium, eumque, ut meminiſſe poteſtis, recepiſtis de manu mea. Et ipſe vos tantâ affectione diligit, ut aliquem inimicorum veſtrorum recto lumine nequeat intueri. Eos enim jam continuiſſet, niſi obſtitiſſet reverentia et timor nominis mei. Sed ſcio qùod vos graviùs de eis, etiam quam oporteat, ulciſcetur, qùam citò tempus et occaſionem acceperit. Nec dubito quin Eccleſia Cantuarienſis nobiliſſima ſit inter omnes Eccleſias Occidentis, nec eam jure ſuo privare volo, quin potiùs, juxta conſilium veſtrum, dabo operam, ut et in hoc articulo relevetur, et priſtinam in omnibus recuperet dignitatem. Illis autem, qui me et vos hactenus prodiderunt, Deo propitio, ſic reſpondebo, ut exigunt merita proditorum.* Cùm ergo equo deſiliens me humiliarem ad pedes ejus, arrepto ſcanſili me coëgit aſcendere, et viſus illachrymari ait: *Quid multa? Domine Archiepiſcope, reſtituamus nobis invicem veteres affectiones, et alter alteri, quod potuerit, bonum exhibeat, et præcedentis odii prorſus ſimus immemores. Sed mihi, quæſo, coram his qui procul adſpiciunt, honorem exhibeatis.* Et tranſiens ad illos, quia paucos ibi, quos lator præſentium indicabit, videbat amatores diſcordiæ, et odii incentores, ait, ut tam illorum quam omnium, nequid male dicerent, ora præcluderet: *Si ego, cum Archi-Epiſcopum ad omne bonum paratum inveniam, ei viciſſim bonus non fuero, tunc ero nequior cæteris hominibus, et mala, quæ de me dicuntur, vera eſſe probabo. Nec aliud conſilium honeſtius aut utilius crediderim, qùam ut ipſum ſtudeam benignitate præcedere, et tam charitate qùam beneficiis ſuperare.* Sermonem Regis cum ſumma gratulatione ferè quotquot aderant,

rant, exceperunt. Misit ergo ad nos Episcopos suos, qui monerent ut petitionem nostram coram omnibus faceremus. Et, si quorundam ex ipsis consilio credidissemus, in arbitrium ejus contulissemus prorsus et nos et totam causam Ecclesiæ. Nam ab initio usque nunc à Scribis et Pharisæis suis egressa est iniquitas, et de authoritate seniorum invalui, qui debuerant regere Populum. Sed benedictus Deus, qui non permisit, ut in consilium illorum transiret anima nostra, et Ecclesiæ libertatem aut justitiam Dei exponeremus cujuscunque hominis voluntati. Illis autem dimissis, habitâ deliberatione cum Domino Senonensi et Christi pauperibus, sociis peregrinationis et proscriptionis nostræ, in eo firmavimus propositum, ut nec quæstionem consuetudinum, nec damnorum quæ Ecclesiæ nostræ intulerat, nec usurpatæ consecrationis querelam, nec Ecclesiasticæ libertatis aut honoris nostri dispendium, aliquo modo conferremus in arbitrium ejus. Et sic accedentes ad Regem et suos, cum omni humilitate rogavimus per os Domini Senonensis, qui verbi nostri bajulus erat, ut nobis gratiam suam restitueret, pacem et securitatem, tam nobis quam nostris, Cantuariensem Ecclesiam et possessiones ejus, quas exceptas in chartulâ legerat; et ut misericorditer emendaret quod contra nos et Ecclesiam nostram fuerat in filii sui coronatione præsumptum; promittentes ei amorem et honorem, *et quicquid obsequii Regi et Principi potest ab Archiepiscopo exhiberi in Domino.* Ille verbum acceptans annuit, et nos et nostros qui aderant recepit in gratiam suam. Et quia non præceperatis, ut ipse nobis et nostris ablata restituerit, neque à nobis poterat impetrari, aut poterit, Deo authore, ut ea remittamus, juxta mandatum vestrum repetitio eorum dilata est, non sublata. Nam si, præcepissetis eo vigore, quem in novissimis expressistis, ut restituerentur, haud dubium quin satisfeciset, et posteris dedisset exemplum, toti Ecclesiæ Dei, et maximè Apostolicæ sedi, perpetuò profuturum. Tandem itaque nobiscum multa et diu conferens, cùm nos duo soli ferè usque ad vesperam collocuti essemus, secundùm morem familiaritatis antiquæ, in hoc convenimus, ut, eo discedente, rediremus gratias acturi Christianissimo Regi, et aliis benefactoribus nostris, reversuri ad ipsum rebus compositis, et aliquamdiu moraturi circà eum, antequàm redeamus in Angliam, ut omnibus innotescat, in quantam familiaritatem et gratiam nos receperit. Expectabimus autem in Franciâ donec redeant nuncii nostri, quos ad recipiendas possessiones nostras destinavimus; quia non est in animo nostro ut redeamus ad ipsum, quamdiu de terrâ Ecclesiæ passum pedis abstulerit. Nam in restitutione possessionum facile advertemus, quâ sinceritate agatur nobiscum. Nec tamen veremur, quin impleat quod promisit, nisi eum præpediant consiliarii, quos de pravitate conscientiæ

ſtimulus quieſcere non permittit. Hi ſiquidem, ne comprehendantur in operibus manuum ſuarum, errores ſuos impunitate donari moliuntur, authoritate et conſortio Regiæ Majeſtatis. Hi nos in ſortem Balaamitarum conantur impellere, ut, vivificantes animas quæ non vivunt, criminoſos in ſcelere deprehenſos abſolvamus ſine pœnitentiâ et confeſſione erroris; quam utique poteſtatem Deus nec alii indulſit, nec retinuit ſibi. Niſi adquieverimus, pacem et concordiam cum Domino Rege initam machinantur infringere. Sed, Deo authore, nec ſic nos inducent, ut, ſedem ponentes ex adverſo Altiſſimi, gloriemur inaniter nos vivificare aut juſtificare quos ille non vivificat. Certum enim eſt quanticumque Paſtoris ſententiam jure veraciſſimo non tenere, ſi Divino judicio reprobatur. Nos tamen ſub ipſo diſceſſu noſtro, ſive paci invidens, ſive amicis et familiaribus proſpicere volens, ad inſtantiam, ſicut dicitur, Gaufredi Cantuarienſis Archi-diaconi, Exonienſis Epiſcopus, ſatis argutè et inſtanter, Rege, Epiſcopis, et Proceribus præſentibus, ſollicitavit circa articulum iſtum, dicens oportere, ut, quemadmodum Dominus Rex fideles noſtros in gratiam receperat, ita nos omnes qui cum illo ſteterant in gratiam reciperemus. Cui reſpondimus, "hîc, ſi placeret illi, diſtinctionem neceſſario admittendam. Nam in eis, quorum advocationem ſuſceperat, erant homines diverſæ conditionis, alii nocentiores, alii minùs, alii in communione Eccleſiæ, alii excommunicati, contractu et participatione anathematis, aut ſententiâ; alii in ſummi Pontificis conſtitutionem inciderant, et ſine authoritate ejus abſolvi non poſſunt; alii, ex variis cauſis, à nobis vel ab aliis Paſtoribus ſuis juſto ſunt anathemate condemnati. Proinde in perſonis et cauſis tam diſſimilibus ratio juris et æquitatis vetat idem eſſe judicium. Nos autem ad omnes, quantum in nobis eſt, pacem et charitatem habentes, Domini Regis audito conſilio, ad honorem Eccleſiæ Dei, ſuum, et noſtrum, necnon et ſalutem eorum quibus reconciliatio quæritur, negotium Deo propitio moderabimur, ut ſi quis eorum, quod abſit, pace caruerit, reconciliationis expers, hoc ſibi, non nobis, debeat imputare." Cùm autem ad hæc præfatus Gaufredus Archidiaconus, adhuc excommunicatus, ſicut incentor diſcordiæ, ita et contemptor juſtæ ſententiæ, tumidus reſponderet, Dominus Rex, ne ſuborientia hinc inde verba cauſas odii et ſopitæ inimicitiæ fomitem inſtaurarent, nos de turba extrahens, rogavit ne curaremus quæ dicerentur à talibus, et ut, pacato animo et tranquillo, et licentiam et benedictionem dantes, cum gratiâ Dei et ſuâ rediremus ad hoſpitium noſtrum. Poſteà verò accepimus, quod venerabiles viri, Dominus Rothomagenſis et Epiſcopus Nivernenſis, quos inter nos et Dominum Regem juſſeratis eſſe mediatores, et qui de pace noſtra ſolliciti extiterunt, Epiſcopo Sagienſi

tranſeunti in Angliam dederunt in mandatis, ut excommunicatos noſtros abſolveret, ſed incertum eſt, an ei formam quam illis dederatis præſcripſerint, aut, ſi præſcripta eſt, an eam ſit idem Epiſcopus ſecuturus. Verumtamen nec illis mandare licuit, niſi quatenùs poteſtatem à vobis acceperunt, nec ille aliquid egit, ſi fines, quos præſcripſeratis, exceſſit. Unde ſi placet, neceſſe eſt, ut, ſi aliter abſoluti ſunt, præcipiatis eos ſententiâ, quâ tenebantur, arctari, donec ſecundùm Eccleſiæ formam jurent, ut ante juſſeratis, ſe veſtro mandato parituros, et illis, qui taliter abſolvi meruerint, in virtute obedientiæ injungatis, quatenùs mandatum, quod eis ex parte veſtrâ faciemus, inviolabiliter obſervent, vel ad vos infra terminum quem præfigetis accedant, ut audiant veſtrum, ſubjectâ pœnâ, niſi paruerint, ut in priſtinam ſententiam, ſublato appellationis obſtaculo, reponantur. Neque hæc dicimus, Deo teſte, vindictam expetentes, cum ſcriptum eſſe noverimus, *non quæres ultionem, nec memor eris injuriæ civium tuorum*; ſed ut Eccleſia correctionis exemplo poſſit per Dei gratiam impoſterum roborari, et pœna paucorum multos ædificet. Nam, ut Spiritus S. author, *flagellato peſtilente ſapiens eruditur*. Nec vigere poterit Apoſtolicæ ſedis authoritas, niſi percellantur et hi, qui Laïcorum patrocinio abutentes, excommunicati aut prohibiti præſumpſerunt Divina celebrare. Quid enim ſolus Epiſcopus, quantumlibet Eccleſiæ Romanæ devotus, poterit, ſi ab obedientiâ ejus, ad nutum potentum, receſſerint ſacerdotes et clerus ſuus? Nihil enim eſt quod Eccleſiam magis debilitet, quàm quòd Apoſtolica ſedes talia, cum emergunt, facilè præterit impunita. Hæc dicentes ſcimus nobis in his exequendis, ſi placuerit vobis, magnos, Deo tamen propitio vincibiles, imminere labores: Sed præelegimus arctam et anguſtam viam ſequi, quæ ducit ad vitam, quàm latam et ſpatioſam, quæ per illecebras ſæculi trahit ad inferos. De mandato veſtro, damnorum noſtrorum ad præſens tacita eſt repetitio. Placeat Serenitati veſtræ, qualiter vos hîc procedere oporteat à latore præſentium exaudire, et injuriam corrigere, quæ nobis et Eccleſiæ noſtræ illata eſt in coronatione filii Regis, alio, contra morem antiquum et mandatum veſtrum, invadente jus noſtrum et provinciam noſtram. Neceſſitas nos coëgit excedere modum ſcribendi, timor et reverentia de dicendis plura reprimere compulerunt, ſed Apoſtolica Dignatio et Clementia Paternæ Manſuetudinis immoderationi, ſi placet, veniam dabit, et quæ dicenda fuerant à latore præſentium ſolitâ pietate exaudiat, et petitiones, quas per eum porrigimus, celeriùs jubeat adimpleri.

N° XXI.

Ep. lxx. *l.* v. *Thomas Cantuarienſis Archiepiſcopus Dilectæ Filiæ ſuæ Idoneæ.*

This refers to p. 583, 584. B. iii.

THOMAS Dei gratiâ Cantuarienſis Archiepiſcopus, et ſedis Apoſtolicæ Legatus, Dilectæ Filiæ ſuæ Idoneæ ſalutem, et perſeverantem in virtute Obedientiæ et Juſtitiæ zelo vigorem. Infirma mundi elegit Deus, ut fortia debellaret, intumeſcentemque contra Deum audaciam Holofernis, viris deficientibus, Ducibus exanimatis, et ſacerdotibus ferè deſerentibus legem, feminæ virtus extinxit. Heſter electa eſt, ut exulantis et condemnatæ Eccleſiæ ſalutem procuraret. Titubantibus Apoſtolis, fugientibus, et, quod magis eſt, in perfidiam lapſis, Dominum paſſioni addictum proſecutæ ſunt mulieres; et, quod amplioris eſt fidei manifeſtum, etiam mortuo obſecutæ meruerunt Angelorum viſu et alloquio confortari, et percipere Dominicæ Reſurrectionis primitias, et, latentibus Apoſtolis et ferè deſperatione ſubmerſis, redemptoris gloriam et Evangelii gratiam nunciare. Speramus autem te in illarum, Deo authore, tranſituram eſſe conſortium, quarum Chriſti zelo ſuccenſa apprehendis exemplum. Quia ſpiritus charitatis, qui à corde tuo timorem expulit, per gratiam ſuam faciet, ut tibi, licet ardua videantur quæ neceſſitas Eccleſiæ fieri conſtantiùs et inſtantiùs exigit, non modò poſſibilia, ſed facilia ſint credenti. Hâc ergo de fervore, quem habes in Domino, ſpe conceptâ, tibi mandamus, et *in remiſſionem peccatorum injungimus*, quatenùs literas Domini Papæ, quas tibi mittimus, Venerabili Fratri noſtro Rogerio Eboracenſi Archiepiſcopo tradas, ſi fieri poteſt, præſentibus fratribus et Co-epiſcopis noſtris; aut ſi eos præſentes habere nequiveris, hoc ipſum facias in præſentiâ eorum quos adeſſe contigerit. Et, ne originale ſcriptum poſſit aliquâ ſubdiverſatione ſupprimi, tranſcriptum ejus legendum circumſtantibus tradas, et eis, prout plenius te nuncius inſtruet, mentem aperias literarum. Labori tuo, filia, præmium grande proponitur, remiſſio peccatorum, fructus immarceſſibilis et corona gloriæ, quam tandem *Beatæ peccatrices*, Magdalena et Ægyptiaca, deletis totius anteactæ vitæ maculis, a Chriſto Domino receperunt. Aderit tibi Magiſtra miſericordiæ, Filium, quem pro mundi ſalute edidit, Deum et hominem, rogatura, ut

is ſit dux, comes, et patronus itineris. Et qui inferni clauſtra dirumpens Dæmonum contrivit poteſtatem, licentiam coarctavit, ne tibi nocere valeant, manus cohibeat impiorum. Vale, ſponſa Chriſti, et eum cogites ſemper eſſe præſentem*.

Nº XXII.

A Charter of King Henry *the* Third, *in the old Engliſh of that Time, inforcing the late Proviſions of Oxon.*

Rot. Pat. 43 *H.* III. *m.* 15. *nº* 40.

HENRY thurg Godes fultome King on Engleneloande Lhoauerd on Yrloand Duk on Normand. on Acquitain and Eorl on Anjou. ſend I, greting to alle hise holde ilærde and ilewede on Huntindonnſchiere; thæt witen ge wel, alle thæt we willen and unnen, thæt ure rædeſmen alle other the moare del of heom, thæt beoth ichoſen thurg us and thurg thæt *Loandes Folk*, on ure Kuneriche habbeth idon, and ſchullen don in the worthneſs of Gode, and ure treowthe for the freme of the Loande, thurg the beſigte of than to foren iſeide rædeſmen beo ſtedefæſt and ileſtinde in alle thinge abutan ænde, and the heaten alle ure treowe in the treowthe thet heo us ogen, that heo ſtede-feſtliche healden and weren to healden and to ſwerien the iſetneſſes thæt beon makede and beon to makien thurg than to foren iſeide rædeſmen, other thurg the moare dæl of heom alſwo; alſe hit is beforen iſeid. And thæt æhcother helpe thæt for to done bitham ilche other agenes alle men [*paucula quædam hic deeſſe videntur, hæc ſcilicet aut ſimilia:* in alle thinge thæt] ogt for to done and to ſoangen. And noan ne mine of Loande ne of egetewher thurg this beſigte muge beon ilet other iwerſed on oniewiſe. And gif oni ether onie cumen her ongenes we willen and heaten, thæt alle ure treowe heom healden deadlichiſtan. And for thæt we willen thet this beo ſtedefæſt and leſtinde, we ſenden gew this Writ open iſeined with ure Seel to halden amanges gew ine Hord. Witneſs us ſeluen æt Lundænthane egtetenth day on the Monthe of Octobr, in the two and fowertigthe geare of ure crunninge. And thir wes idon ætforen ure iſworen redeſmen, Bonefac. Archebiſchop on Kanterbur. Walter of Cantelop, Biſchop of Wirecheſter, Sim. of Mont-

This was omitted in the Appendix to the Second Book, where it ought to have been placed as referring to p. 320 of that Book.

* N. B. Some faults in the printed Bruxelles edition of this, and ſome other preceding letters, have been corrected from the Cottonian and other Manuſcript copies.

fort Eorle of Leicheſtre, Rich. of Clare Eorl on Glocheſter and on Hartford; Roger Bigod Eorl of Northfolk and Mareſcal on Engleloand, Perres of Sauueye, Will. of Fort Eorl on Aubem, John de Pleſſe Eorl on Warwick, Joh.. Gefferees-ſune, Perres of Muntfort, Rich. of Grey, Rog. of Mortemer, Iames of Aldithel, and ætforen othre moge.

AND all on tho ilche worden is iſend in to aurichte othre Schire ouer al thare Kuneriche on Engleneloande and ek inter Irelonde.

The ſame in Modern Engliſh, tranſlated by Mr. Somner.

HENRY, by God's help, King of *England*, Lord of *Ireland*, Duke of *Normandy*, and of *Aquitain*, and Earl of *Anjoy*, Greeting to all his faithful Clerks and Laics of *Huntingdonſhire:* This know ye all well, that we Will * and *Grant* that which our Councellors all, or the moſt part of them that be choſen by us, and the † People (or *Commons*) of our Land, have done, and ſhall do, for the Honour of God, and of their Allegiance to us, for the ‡ Benefit (or Amendment) of the Land, by the Advice or Conſideration of our foreſaid Counſellors, be ſtedfaſt and performed in every thing for ever. And we Command all our Liege People in the Fealty that they owe us, that they ſtedfaſtly hold, and ſwear to hold [or keep] and to defend [or maintain] the Statutes [or Proviſions] which be made, and ſhall be made, by thoſe aforeſaid Counſellors, or by the more part of them, alſo as it is beforeſaid; and that they each other aſſiſt the ſame to perform, according to that ſame Oath, againſt all Men, both for to do, and cauſe to be done: And none neither of my Land, neither from elſewhere, may for this be hindered, or damnified in any wiſe: and if any man or woman oppoſe them againſt, we Will and Command that all our Liege People them hold for deadly Enemies; and becauſe we will, that this be ſtedfaſt and laſting, we ſend you this Writ open, ſigned with your Seal to be kept amongſt you in * Store; witneſs our ſelf at *London* the 18*th* day of the Month of *October*, in the two and fortieth Year of our Coronation; and this was done before our ſworn Counſellors, *Boniface* Archbiſhop of *Canterbury*, *Walter* of *Cantelow* Biſhop of *Worceſter*, *Simon Montfort* Earl of *Leiceſter*, *Richard* of *Clare* Earl of *Gloceſter* and of *Hartford*, *Roger Bigod* Earl of *Norfolk* and Mareſchal of *England*, *Peter* of *Savoy*,

* *Unnen.*

† Loandeſfolke *ſignifies the Common People, called by us* Folk *at this day.* Vid. *Dr.* Brady's Com. Hiſt. *p.* 68.

‡ Freme.

* Hord'

voy, *William* of *Fort* Earl of *Aubemarle*, *John* of *Pleſſeiz* Earl of *Warwick*, *John Gefferiſſon*, *Peter* of *Montfort*, *Richard* of *Grey*, *Roger* of *Mortimer*, *James* of *Aldithly*, and before others more.

AND all in theſe ſame words is ſent into every other Shire over the Kingdom of *England*, and alſo into *Ireland*.

END OF THE APPENDIX TO THE THIRD BOOK.

ERRATA in the Notes to the Second Book of the Life of King HENRY II.

P. 4.	l. 9.	*leave out* that.
6.	13.	*from the bottom for* have, *read* here.
11.	9.	*before* naked *leave out* ſo.
29.	14.	*from the bottom, for* eſtabliſhing therein a new military power, *read* the eſtabliſhing therein of a new military power.
37.	17.	*from the bottom, for* Breton *read* Britton.
43.	17.	*leave out the* commas *after* quam *and* me.
49.	15.	*from the bottom, for* the King's Chamberlains and his Mareſchall, *read* the King's Mareſchall
P. 49.	15.	*for* tunc *read* hunc.
55.	12.	*from the bottom, for* Cherburg *read* Cherbury.
62.	14.	*for* book *read* chapter.
89.	1.	*leave out* in the Tower of London concerning a Petition.
117.	11.	*for* theſe *read* thoſe.
126.	1.	*leave out* ſeem to.
Ibidem	8.	*for* two *read* too.
Ibidem	14.	*for* cauſes *read* cauſe.
134.	3.	*for* his work *read* this work.
Ibidem	7.	*from the bottom, for* quem *read* quam.

ERRATA in the Notes to the Third Book.

P. 146.	l. 12.	*from the bottom, for* Appendix in *read* Appendix to.
147.	13.	*for* cauſe *read* courſe.
P. 159.	l. 2.	*from the bottom, put the mark of the* Parentheſis *after* ſuppoſed.

ERRATA in the APPENDIX.

P. 181.	l. 3.	*for* une *read* un.
Ibidem	8.	*for* effects *read* effets.
193.	22.	*after* principi *leave out the* comma.
194.	6.	*from the bottom, for* aut veſtris *read* aut è veſtris.
200.	11.	*from the bottom, for* ſua *read* ſuæ.
Ibidem	15.	*from the bottom, before* de paupertate *inſert* potius.
P. 210.	l. 2.	*from the bottom, for* certè *read* certo.
218.	16.	*for* paret *read* pareret.
226.	5.	*for* Doveham *read* Doverham.
		at the bottom, for cornandum *read* coronandum.
Ibidem	2.	*from the bottom, leave out* coronandum.
Ibidem	3.	*from the bottom, after* petitionem *inſert a* comma.

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NOTES

ON THE

FOURTH AND FIFTH BOOKS

OF THE

HISTORY

OF THE LIFE OF

KING HENRY THE SECOND.

WITH AN APPENDIX TO EACH.

By GEORGE LORD LYTTELTON.

LONDON,

Printed for J. DODSLEY, in Pall Mall.

MDCCLXXI.

ERRATA.

NOTES on BOOK IV.

P. L.

ERRATA.

Notes on Book IV.

P.	L.	
272.	5.	from the bottom, inſtead of *innacuracies* read *inaccuracies*.
288.	10.	from the bottom, inſtead of *this realm* read *his realm*.
289.	8.	after *Lacey* inſert *or Laſci*.
	7.	from the bottom, inſtead of *maſk* read *mark*.

Notes on Book V.

P.	L.	
351.	12.	from the bottom, inſtead of *their innocence* read *his innocence*.
364.	10.	from the bottom, inſtead of *eâ* read *eam*.

In the running Title, inſtead of *to* read *on*.

Appendix to Book IV.

P.	L.	
294.	2.	inſtead of *beatri* read *beati*.
301.	1.	inſtead of *exitiſſe* read *extitiſſe*.
205.	16.	read *aufugerant*.
313.	10.	inſtead of *alii* read *alio*.
319.	1 and 2.	from the bottom, inſtead of *retatus* read *rectatus*.
323.	7.	from the bottom, inſtead of *contemporibus* read *contemptoribus*.
326.	2.	from the bottom, inſtead of *quotienſcunque* read *quotieſcunque*.
392.		inſert the mark of reference (‡) before the note at the bottom of the page.
339.	6.	from the bottom, inſtead of *magna* read *magnum*.

Appendix to Book V.

P.	L.	
7.	3.	inſtead of *Anglia* read *Angliæ*.
	21.	inſtead of *audentia* read *audientia*.
12.		*Note* at the bottom, l. 1. inſtead of *was not given* read *was not uſually given*.
17.		*Note*, l. 1. after *Peterborough* put *a comma*.
	9.	after *roboratum* put *a comma*.
20.	16.	read *quindecim*.
	3.	from the bottom, read *Huntindonenſis*.
23.	6.	read *Wigornenſem*.
26.	3.	from the bottom, inſtead of *navitate* read *nativitate*.

THE LIFE OF KING HENRY II

NOTES

TO THE

FOURTH BOOK

OF THE

Life of King Henry the Second.

PAGE 9. *They gave out, that ſuch miracles were wrought by the interceſſion of this martyr and ſaint, as equalled, or even exceeded, the greateſt contained in the legends of the church.*

Gervaſe, of Canterbury, ſays, that two volumes of miracles, performed by the dead archbiſhop, were extant at Chriſt Church in Canterbury when he wrote, and affirms, that they equalled all thoſe of the goſpel. In proof of which he tells us, that not only diſeaſes of all kinds were healed by the invocation of his name, but members cut off and eyes pulled out were reſtored to the bodies from which they had been ſeparated, and the dead were raiſed to life. "*Ad invocationem nominis* "*ejus qualibet infirmitate gravati convaluerunt. Quibuſdam etiam genita-* "*libus abſciſſis et oculis effoſſis nova membra reſtituit, aliiſque morte jam* * *de-* "*poſitâ vitam redonavit.*" To which Matthew Paris adds, that he alſo reſtored life to dead birds and other animals: "*Et non ſolum utriuſque* "*ſexus homines, verum etiam aves et animalia de morte reparantur ad vi-* "*tam.*" This, I preſume, he did, at idle times, for amuſement. But we are informed by Gervaſe of Canterbury, "that a prieſt at London, "named William, was ſtruck dumb on the feaſt of St. Stephen, the "proto-martyr, and, by a viſion, was ordered, for the recovery of his "ſpeech,

Col. 1417. apud Decem ſcriptores.

* Q. *depoſitis.*

Hiſt. Angliæ, p. 121.

Col. 1417, 1418.

" ſpeech, to viſit the body of the new martyr at Canterbury, and " *drink his blood*. He did ſo, and recovered the perfect uſe of his " tongue: on the fame of which miracle, the martyr's blood, mixt " with water, was ſent over the whole world, and given to the ſick, " who by drinking it were reſtored to health; as, moreover, ſome dead " perſons were to life, by having it infuſed into their mouths."

Nor are we to ſuppoſe that theſe teſtimonies of the ſanctity of Becket were only received by the vulgar. The archbiſhop of Sens, in a letter to the pope, delivered to poſterity by Roger de Hoveden, told his Holineſs very gravely, that the wax-lights, which were placed about the corpſe of Becket before his interment, happening to go out in the night, he roſe up, and lighted them again himſelf; and that, after his obſequies were performed by the monks, as he lay upon his bier, he lifted up his right hand, and gave his benediction to all the aſſembly there preſent. One is aſhamed to repeat all the ſhocking abſurdities, which the zealots of thoſe times were not aſhamed to aſcribe to the power and wiſdom of God, operating, as they pretended, to the honour of this prelate, whom, *on the report of his great and innumerable miracles, and on a ſolemn examination of them by two cardinal legates* (as the words of the bull itſelf declare) Pope Alexander ſainted. But, in an age of ſuch eaſy and implicit faith, it is no wonder that his Holineſs (however incredulous he himſelf may have been) ſhould vouch for the truth of theſe ridiculous fictions, ſeeing that the controverſy between the church and the crown would more eaſily be determined, to the advantage of the church, by the credit given to them, than by any other means. " *Who but a Dæmoniack* (ſays John of Saliſbury in one of his letters) " *will affirm that the cauſe, which crowned its patron with ſo much glory,* " *was unjuſt?*" But beſides the general intereſt of the ſee of Rome, Alexander had another which was perſonal to himſelf. It is very well obſerved in the ſame letter, " *that whereas many doubted whether Alexan-* " *der was the true pope or not, the miracles of Becket decided that queſtion* " *in his favour; as they could not have been done by one engaged in a* " *ſchiſm.*" This argument was concluſive; and therefore John of Saliſbury not unreaſonably expreſſes the utmoſt ſurpriſe, " *that his Holi-* " *neſs ſhould ſo long delay to admit Becket into the catalogue of ſaints.*" However, the delay was not long: for the canonization followed the death of that prelate within the period of two years. Nevertheleſs we

Hoveden, Annal. pars 2. f. 300. ad ann. 1171.

V. epiſt. S. T. e cod. Vatic. l. v. epiſt. 93. Baronii Annales, t. xii. p. 315.

Epiſt. Joh. Sariſb. 287.

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are told, that in leſs than half a century after his deceaſe, it was publicly diſputed in the univerſity of Paris, whether his ſoul was ſaved or damned. And the French at this time would do well to conſider, what would become of the rights of their monarchy, or of the liberties of the Gallican church, if they ought, as good Catholics, to venerate Becket, as a ſaint and a martyr. The points for which he contended were no leſs inconſiſtent with many of theſe than with the laws of this realm: nor could any man now in France maintain with impunity the doctrines and principles aſſerted in his letters, which are evidently thoſe of Gregory the ſeventh, with reſpect to the extent of the papal authority, and the total independence of the church on the ſtate. It was his zeal for this ſyſtem, moſt intemperately exerted, which occaſioned his death: and allowing the pope to be, as he is ſtiled by ſome canoniſts, *God upon earth*, of *that God* this great prelate was unqueſtionably the martyr; but (however he might herein deceive himſelf) the whole ſeries of the conteſt between him and his ſovereign undeniably proves, that he did not ſuffer for Chriſt, or any article of the faith delivered in the goſpel.

Du. Moulin, Hiſt. de Norm. p. 382.

P. 13. *The very learned biſhop Stilling fleet has ſufficiently ſhewn, that the pſalter of Caſhel is of no better credit, as to the account which it gives of the high antiquities of the Iriſh, than the Britiſh romance abovementioned.*

The compiler of this book was Cormac Mac Culinan, biſhop of Caſhel in Munſter, who left it by his will to that ſee, as containing the moſt valuable hiſtorical monuments and records of his country. He was alſo king of Munſter, and exerciſed jointly the regal and the epiſcopal functions. His prieſthood did not prevent him from fighting in perſon at the head of his army, not againſt the public enemies of his country and religion, the Oſtmen, but againſt his ſovereign, Flan Sionna, ſupreme monarch of Ireland, by whoſe forces, and by thoſe of the kings of Leinſter and Conaught, he was vanquiſhed and ſlain, in the year nine hundred and ſeven, after a moſt bloody conteſt.

P. 15. *No notice is taken of them under that appellation in Ptolomy's map of Ireland, though he mentions the Concani, a Celtic people of Spain, as then ſettled in that iſle.*

The Concani came into Ireland from Cantabria or Gallitia; and to theſe Camden adds, on the authority of Oroſius, the Velabri and Lucani (or Lucenſii) of Gallitia, as ſeated in Weſt Munſter. (See Camden's Britannia, Ireland.) Horace mentions the Concani as equally ſavage with the Britons in his time.

P. 16. *For in Spain were no Druids, that order having only obtained an eſtabliſhment in the Britiſh iſles and in Gaul, which laſt country received it (as Cæſar tells us) from Britain.*

The Celtic religion was much the ſame in all places, where it had not been altered by an intercourſe with the Greeks or other neighbouring nations; but the Druidical hierarchy, and the ſeveral inſtitutions peculiar to that prieſthood, do not appear to have been ſettled in any part of Europe except thoſe above-mentioned. Cæſar's teſtimony on that matter cannot, I think, be diſputed, conſidering how inquiſitive that great man was, and what opportunities of information he had, during his long abode in Gaul. See, with regard to this point, Dr. Borlaſe's very learned and ſagacious obſervations on the Antiquities of the County of Cornwall, chapters iii. iv. v. vi.

P. 19. *And in the uſual courſe of things, Ireland, beſide the chief monarch, who governed the whole iſland, had five provincial kings, &c.*

It muſt be underſtood, that when one of theſe five provincial kings obtained the monarchy or ſovereignty of the whole iſland, he continued, as before, to govern his own realm, according to the laws and cuſtoms thereof; in like manner as an elector of Bavaria, choſen emperor of Germany, would continue to govern his electorate; which province would be ſubject to the Imperial crown and the laws of the empire, neither more nor leſs than it was before that event.

P. 21. *The royal revenues of the monarch, after this alienation, conſiſted in tributes, not of money, but cattle, and other neceſſaries of life, paid to him*

him in kind. The inferior kings had ſuch tributes which their ſubjects paid to them, &c.

Dr. Warner has given us, in his Hiſtory of Ireland, from *the book of rights of Munſter*, which Dr. Raymond ſays, *is the oldeſt book of hiſtory extant next the Greek and Roman*, the amount of the revenue ſent every year to the palace of Kincora in that province, viz. fourteen hundred and fifty oxen, three thouſand ſix hundred and fifty cows, four thouſand eight hundred hogs, two thouſand ſix hundred wethers, one hundred horſes, and eleven hundred and fifty mantles; beſides contributions of men and ſhips from the Oſtmen. But I neither warrant to the reader the authenticity of this book, nor another account in Dr. Warner's Hiſtory of the proviſions ſent to Brian Boro, as monarch of all Ireland, from three provinces of that iſland, viz. two thouſand ſix hundred and ſeventy oxen, one thouſand three hundred and ſeventy hogs, one hundred and eighty tons of iron, three hundred and twenty-five hogſheads of claret from the Danes of Limerick, one hundred and fifty pipes of other wine of various ſorts from the Danes of Dublin, and five hundred mantles from the county of Tirconnel.

L. x. p. 423.

Ibidem.

P. 39. *The particulars of this battle are ſo differently related, that no certain account can be given of it here.*

Some ſay that Bryan Boro commanded in it himſelf, and was victorious, but died ſoon afterwards of a wound he had received in the action. Others tell us that the Oſtmen, who were beginning to give way, recovered their fainting courage upon ſeeing him fall, and defeated the Iriſh: while ſome affirm, that his age diſabling him from acting at the head of his army, he gave up the conduct of it to Prince Murtogh his ſon, and was killed in his tent by a party of the Oſtmen, who were flying from the battle, in which they had been vanquiſhed. But this laſt account appears extremely improbable; as the tent of a king is ſeldom left without a guard, nor do routed ſoldiers fly into an enemy's camp. A ſtrange ſtory is alſo told, by ſome of the Iriſh writers, of the manner in which Murtogh, the ſon of Brian, was ſlain. They ſay, that a ſon of the king of Denmark lay wounded upon the field of battle, and implored the help of that prince, who was riding over it in purſuit of the army he had routed; whereupon he diſmounted, and giving his hand

to the Dane, was ſtabbed by him to the heart. But ſuch perfidy, and ſuch enormous ingratitude, where no perſonal cauſe of malice, or inſtigation to revenge for private injuries, could exiſt, ſcarce belong to human nature; and it is more credible that this tale was invented by the Iriſh in hatred to the Danes.

P. 32. *The information he ſoon gained of the weak condition of Ireland made him hope to add that to his other acquiſitions, and this hope was to him a ſufficient cauſe of war*, &c.

If we may believe the Chronicle of Man, publiſhed by Camden at the end of his Britannia, this prince, having gained the dominion of that iſle and the weſtern iſles of Scotland, ſent a pair of his ſhoes to king Morrogh O Brian, ſupreme monarch of Ireland, and commanded him to carry them, as a ſign of ſubjection, in preſence of the embaſſadors who brought him this meſſage, through all the rooms of his palace, on the next Chriſtmas-day. The court of O Brian expreſſed a proper indignation at ſo arrogant a demand; but he told them, that *rather than Magnus ſhould ravage a ſingle province in Ireland, he would not only ſubmit to carry, but alſo to eat his ſhoes.* Accordingly he performed this new ſpecies of homage, and having honourably entertained the Norwegian embaſſadors, ſent them back to their maſter with many preſents for him, and made with him a league of friendſhip. But they, at their return, deſcribing to that prince the fertility and beauty of the country, into which he had ſent them, he coveted to poſſeſs it, and attempting the conqueſt of it periſhed in the manner here related.

If there be truth in this ſtory, the tameneſs of O Brian, in ſubmitting to the inſolence of ſo opprobrious a meſſage, muſt be chiefly imputed to an eager deſire of ſubduing his competitor, David O Lachluin, by the aſſiſtance of Magnus. But it does not ſeem very credible, and no mention is made of it in the Iriſh annals of thoſe times.

P. 42. *And Bernard ſays, that, when he firſt went into Conaught, he found the people of that country more barbarous than any he had ever ſeen elſewhere, being Chriſtians only in name, but in reality heathens, and beaſts rather than men; that they paid no tythes nor firſt-fruits, contracted no lawful marriages, made no confeſſions, ſubmitted to no penances*, &c.

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Some of theſe charges againſt the people of Conaught are proofs of their not being then Roman Catholicks, but not of their being bad Chriſtians. Yet the account given of them in this paſſage by Bernard was in other reſpects too well founded, and corroborates what is ſaid of the barbariſm of the Iriſh by Giraldus Cambrenſis: for, though Conaught was the moſt ſavage part of their iſland, yet (excepting the diſtricts then poſſeſſed by the Oſtmen) the reſt of the country could not boaſt of much greater refinements, or of much better morals; the faults of the government, and the general cuſtoms of the nation, being the ſame in them all.

Ibidem. *But that, by the care of this prelate, a great change was ſoon affected in all theſe particulars.*

In deſcribing this change Bernard uſes this expreſſion, "Fiunt de "medio barbaricæ leges, *Romanæ* introducuntur." It may be doubted whether here by *leges Romanæ* be meant the civil laws or the canon. But the following words ſeem to fix the ſenſe to the latter. "Recipitun- "tur ubique *eccleſiaſticæ conſuetudines*, contrariæ rejiciuntur." Perhaps the epithet *Romanæ* included both; as we find it does in other writings of the ſame age. In order to enable Malachy to bring about this converſion of the Iriſh to the diſcipline and canons of Rome, Bernard affirms, that he had received the power of working miracles in as eminent a degree as any of the antient ſaints of the church. "Quo enim "antiquorum genere miraculorum Malachias non claruit? Si bene ad- "vertimus pauca ipſa quæ dicta ſunt, *non prophetia defuit illi, non reve- "latio, non ultio impiorum, non gratia ſanitatum, non mutatio mentium, "non denique mortuorum ſuſcitatio.*" One of theſe miracles was the puniſhment, by ſudden death, of a man, whom the ſaint could not convince of *the real preſence in the ſacrament.* See p. 1950. But, that the reader may judge of the credit due to the relator of theſe wonderful works, I ſhall tranſcribe an account he gives of two, that were performed in an oratory built by Malachy, p. 1944. "Mulier totis diſſoluta membris, "plauſtro vecta illuc, pedibus ſuis remeavit domum, unâ duntaxat nocte "non fruſtra in loco ſancto præſtolata miſericordiam domini. Alia quæ- "dam ibidem pernoctabat in oratione, quam forte reperiens ſolam "homo barbarus, accenſus libidine, et ſui minimè compos, irruit ra- "bioſus in illam. Converſa illa et tremefacta ſuſpiciens advertit homi- "nem

V. S. Bernard. in vitâ Sti. Malachiæ. Epiſc. Bernardi opera, edit. Paris, p. 1936.

" nem plenum diabolico ſpiritu. Heus tu, inquit, miſer, quid agis? Con-
" ſidera ubi es, reverere hæc ſancta, defer Deo, *defer ſervo ipſius, Malachiæ,*
" parce et tibi ipſi. Non deſtitit ille furiis agitatus iniquis. Et ecce
" (quod horribile dictu eſt) *venenatum et tumidum animal quod buſonem*
" *vocant, viſum eſt reptans exire de inter femora mulieris.* Quid plura?
" *terrefactus reſiliit homo, et datis ſaltibus continuo de oratorio exiliit.* Ille
" confuſus receſſit, et illa intacta remanſit, *magno quidem et Dei mira-*
" *culo, et merito Malachiæ.*"

What muſt one think of all the legends, on which the church of Rome has built her faith in the ſaints ſhe has canonized, when he who tells us ſo ſeriouſly this ridiculous tale, *for the edification of the faithful and for the honour of St. Malachy*, is no leſs a perſonage than St. Bernard, one of the oracles of that church! But that the bigotry of thoſe times ſhould receive even theſe fables with a pious veneration, when told by learned monks and founders of orders, is not half ſo ſurpriſing, as that in the preſent age, and in a country ſo enlightened as England, the miracles of Becket, as incredible as thoſe of Malachy, and reported by writers whom no papiſt will think of greater authority than St. Bernard, ſhould be ſtill urged as an undeniable proof of the ſanctity of his cauſe.

See Philipps, Life of Cardinal Pole.

P. 46. *Moreover Giraldus Cambrenſis, in reckoning up the claims which Henry had to Ireland, mentions this grant of Adrian,* &c.

Among theſe are ſome fables, for which Giraldus cites the Britiſh hiſtory, meaning Nennius and Geoffry of Monmouth. But (what is much more ſurpriſing) the Iriſh parliament, in an act of the eleventh year of Elizabeth, ſeſſ. 3. for the attainder of Shane Oneile, has recourſe to the ſame fables to prove her Majeſty's title to the dominion of Ulſter ſuperior to his. I will tranſcribe the words as they ſtand in the act itſelf.

See Iriſh ſtatutes, vol. I. p. 328, 329.

" And therefore may it pleaſe your moſt excellent majeſtie to be adver-
" tiſed, that the auncient chronicles of this realm, written both in the
" Latin, Engliſh, and Iriſh tongues, alledge ſundry auncient titles
" for the kings of England to this land of Ireland. And firſt, that at
" the beginning, afore the comming of Iriſhmen into the ſayd land,
" they were dwelling in a province of Spain, called Biſcaon, whereof
" Bayon was a member, and the chief citie. And that at the ſayd
" Iriſhmens comming into Ireland, one king Gurmonde, ſonne to the
" noble king Belin, king of Great Britaine, which now is called Eng-

" land, was lord of Bayon, as many of his ſucceſſours were to the time " of king Henry the ſecond, firſt conquerour of this realm, *and there-* " *fore the Iriſhmen ſhould be the king of England's people, and Ireland his* " *land.* Another title is, that at the ſame time that Iriſhmen came out " of Biſcay as exiled perſons in ſixtie ſhips, they met with the ſame " king Gurmonde upon the ſea, at the yles of Orcades, then comming " from Denmark with great victory, their captaines called Hiberus " and Hermon, went to this king, and him told the cauſe of their " coming out of Biſcay, and him prayed with great inſtance, that he " would graunt unto them, that they might inhabit ſome land in the " Weſt. The king at the laſt, by adviſe of his counſel, graunted them " Ireland to inhabit, and aſſigned unto them guides for the ſea to bring " them thither; *and therefore they ſhould and ought to be the king of Eng-* " *land's men.*"

Ibidem. *And it appears from the words of John of Saliſbury himſelf, whom Henry employed in this buſineſs, that his pretenſion was founded on the forged donation of Conſtantine to Pope Sylveſter the ſecond.*

The words are theſe. " Ad preces meas illuſtri regi Anglorum Hen- " rico ſecundo (Adrianus) concepit et dedit Hyberniam jure hæreditario " poſſidendam, ſicut literæ ipſius teſtantur in hodiernum diem. *Nam* " *omnes inſulas de jure antiquo, ex donatione Conſtantini, qui eam fundavit* " *ac dotavit, dicuntur ad eccleſiam Romanam pertinere.*"

P. 49. *She made a donation of ſixty ounces of gold for the good of her ſoul, and gave a golden chalice, for the altar of the bleſſed Virgin, with many other rich gifts, to the abbey of Drogheda, &c.*

The gold, which it appears, by this and other paſſages in the hiſtory of thoſe times, the princes of Ireland then poſſeſſed, was the produce of their commerce with the Oſtmen inhabiting their principal cities, who purchaſed with it their cattle and other commodities which their country afforded. Dr. Warner has given us, in his hiſtory of Ireland, the will of Cormac king of Munſter and biſhop of Caſhel, in which (as that writer ſays) his legacies to abbeys and religious houſes are thus enumerated: " An ounce of gold, an ounce of ſilver, his horſe and furniture " to Ard-finnan; a gold and ſilver chalice and veſtment of ſilk to Liſ-

" more; a gold and ſilver chalice, four ounces of gold and five of ſilver
" to Caſhell; three ounces of gold and a maſs-book to Emly; an ounce
" of gold and an ounce of ſilver to Glendalach; a horſe and furniture,
" an ounce of gold, and an embroidered veſtment to Kildare, three
" ounces of gold to Iniſcathy, three ounces of gold, an embroidered
" veſtment, and his bleſſing to Mountgaret, and four and twenty ounces
" of gold and ſilver to Armagh; beſides legacies to his friends, amongſt
" which was a golden chain, and a royal robe embroidered with gold and
" jewels." On which the Dr. remarks, " That if we conſider the ex-
" ceſſive ſcarcity of gold and ſilver in thoſe times, compared with their
" infinite profuſion at preſent, theſe were not inconſiderable trifling be-
" factions for a provincial king." But he does not tell us that he ever ſaw this will, or on what authority he admits it as a genuine record.

P. 54. *Very early in the ſpring he ſent Maurice Regan, his interpreter and ſecretary, &c.*

There is in the Lambeth library a manuſcript poem, in old French or Norman verſe, on the ſubject of Dermod's expulſion from his kingdom, and recovering it by the aid of the Engliſh and Welſh, which was written by ſome Engliſh or Norman rhymer of that age, *from the mouth of this Maurice Regan*, as we are told by the author at the beginning of his work.

" Per ſon *demeine latinier*
" Qe moi *conta* de luy l'hiſtoire
" Dunt far ici la memoire.
" Morice Regan iert celuy
" *Buche à buche parla a luy*,
" *Ki cet jeſt indita.*
" L'hiſtoire de luy me moſtra.
" Icil Morice iert *latinier*
" Al Rei Dormot, ki moult voucher."

I have ſhewn theſe lines in the Lambeth manuſcript to a learned critic in the old French or Norman language, who ſays, that *demeine latinier* ſignifies *familiarem grammaticum*. Some writers have rendered

latinier

latinier (or *latinner*, as it is in other copies) by the word interpreter, and others by the word ſecretary; both which ſenſes it will bear. In another line of the ſame poem Regan is called *Bachiler del Rei Dermot.* The perſon I conſulted underſtands the word *iert* to ſignify *etoit* in modern French. He alſo reads *ces geſtes* inſtead of *ces jeſt*, as it ſtands in the Lambeth manuſcript. *Ki* is the old way of writing *Qui*, and *out* of writing *eut*. It mu ſt be likewiſe obſerved that *monſtra l'hiſtoire* does not neceſſarily mean, in the ſtrict ſenſe of the word, that he *ſhewed* a written hiſtory, but may ſignify that he inſtructed him in the hiſtory of theſe facts by a verbal relation, which agrees better with the two preceding lines.

Some hiſtorians have cited this poem as the work of Maurice Regan himſelf, which is evidently a miſtake; and others have ſuppoſed it a tranſlation into verſe of a hiſtory written by him in proſe: but, that he ever had publiſhed or compoſed ſuch a hiſtory, I cannot diſcover. No notice is taken of it by Giraldus Cambrenſis, or any writer of that age; nor does it appear that any copy, or authentic tranſcript of it, has been ever ſeen ſince that time. A proſe tranſlation of the poem into the Engliſh language was made by Sir George Carew, Lord Preſident of Munſter, during his reſidence there, in the reign of Queen Elizabeth, and has been publiſhed by Mr. Harris among his *Hibernica*, in the year 1747, with explanatory notes. In the tranſlator's preface the verſes above recited are given from another manuſcript copy, but ſtill more incorrectly than in that which I have followed. Both of them ſeem to want mending. I cannot think that this rhyming chronicle, drawn from a verbal relation, imperfectly recollected, and mixed with other hearſays, picked up, we know not how or from whom, is of equal credit with the hiſtory of Giraldus Cambrenſis, whoſe near kinſmen were actors, and principal actors, in moſt of the facts he relates; eſpecially, as that hiſtorian himſelf afterwards went into Ireland, and from the time he ſtaid there had opportunities of hearing the Iriſh accounts, as well as the Engliſh, of all thoſe recent tranſactions. In his *Topographia Hiberniæ*, we find, indeed, many idle and incredible tales, for which he himſelf makes excuſes: but in his hiſtory of the conqueſt of Ireland by the Engliſh he proceeded on better information. The greater part of that work is ſenſibly written; nor does he any where more extoll the va-

lour of his countrymen in the actions of this war, or more depreciate the Iriſh, than the writer of the poem above-mentioned. I have therefore thought it reaſonable to prefer his authority to that of the poem in moſt points of importance, where they cannot be reconciled, the one to the other. But I have added from the latter ſome particulars which the former does not contradict, and which ſeem not unworthy of belief.

As for what had paſt in Ireland during the times that I write of, before the Engliſh adventurers in Dermod's ſervice went thither, the beſt authorities for it are the Annals of Ireland, compiled by contemporary writers, with extracts of which, tranſlated from the original Iriſh, I have been favoured by a gentleman well ſkilled in that language, Charles OConor, Eſq; who with the noble Iriſh blood which flows in his veins has naturally inherited a paſſionate love for the honour of his country, and therefore willingly aſſiſts in any undertaking that may render the hiſtory of it more known and more complete. The diſagreement of the poem above-mentioned with theſe annals, in very material facts, is another proof that it could not be written by Regan, or from any memoirs compoſed by him. It appears from them, that the rape of Devorgalla by Dermod was fifteen years before the expulſion of that king, when the lady was in the flower of her youth and beauty, and Dermod not too old to be her lover: but the poem ſuppoſes this event to have happened a little before his expulſion, when (according to the annals) he was approaching to the 70th year of his age. Giraldus Cambrenſis has fallen into the ſame error: but no native of Ireland could have been guilty of it, and much leſs the ſecretary of Dermod. There are other ſuch miſtakes, and particularly ſome in the geography of the country, which demonſtrate this poem to have been written by a foreigner, and from looſe accounts, not delivered, reviſed, or corrected, by any of the Iriſh.

The annals I have followed are, like our Saxon annals, very ſhort, jejune, and dry; but they throw light on ſome facts, and correct great inaccuracies in our Engliſh hiſtorians with relation to the ſtate of Iriſh affairs preceding the arrival of Fitzſtephen in Ireland; nor have they any mixture of thoſe incredible fables, with which the former parts of the hiſtory of that nation are generally filled. Mr. OConor diſtinguiſhes them by the following names, The Donegal Annals, or of the Four Maſters,

Maſters, continued. The Annals of Clonmacnoſe, or Continuation of Tigernach.

P. 56. *Harvey of Mount Maurice, Strongbow's uncle, was deputed by that lord, &c.*

The name of this gentleman in the books and charters of thoſe times, which are written in Latin, is *Herveius de Monte Mariſco.* Mr. Carte, on the credit of a modern French Genealogy, has tranſlated it Momorency; but I ſee no grounds for deriving the one from the other. Perhaps *de Monte Mariſco* ſhould be rendered *de Mont Mariſque*; but Mont-Maurice, or Mount-Maurice, according to the Engliſh ſpelling, has been the uſual tranſlation.

P. 59. *Dermod prevailed on Fitſtephen to continue this war by repeated expeditions, till having received intelligence, that the whole Iriſh nation, under the orders of Roderick OConor, their ſovereign, was now arming againſt him, he granted a peace to the prince of Oſſory, &c.*

The hiſtorical poem, of which mention has been made in a former note to this book, ſays nothing of this peace, nor of the ſubſequent negociations with Fitſtephen and Dermod, on the part of the king of Conaught, which I have given an account of, from the contemporary hiſtory of Giraldus Cambrenſis. But it mentions an expedition againſt an Iriſh chieftain who had revolted from Dermod, about which Giraldus is ſilent. The particulars are not worth repeating here, as that lord made no reſiſtance, but ſuffered his country to be pillaged without defence. We have likewiſe in that poem an account of a ſecond incurſion into Oſſory, before the arrival of Maurice Fitſgerald at Wexford, which tells us, that in aſſaulting a fortified paſs of that country, the men of Wexford, to whom the attack was firſt aſſigned, though they went on with much courage, were yet repulſed by the enemy three days ſucceſſively; after which it was attackt by the Engliſh and Welſh, who put the Iriſh to flight. Probably this action is included in the ſhort and general relation which Giraldus makes of the war againſt the prince of Oſſory, c. 4. l. i.

P. 62.

P. 62. *Theſe thoughts he (Dermod) confided to Fitſtephen and Fitſgerald, who adviſed him, as the only means of ſucceſs in ſo arduous a deſign, to renew his applications to the earl of Pembroke*, &c.

Giraldus Cambrenſis adds, that he offered to either of theſe gentlemen his daughter Eva in marriage, with the ſucceſſion to his kingdom, which could not be accepted, as both of them were married. But it ſeems incredible, that this circumſtance ſhould have been then unknown to Dermod.

P. 68, 69. *But that monarch, inſtead of cauſing (as he ought to have done) ſome other prince of the royal houſe of Meath to be regularly elected, made ORuark a temporary adminiſtrator of the eaſtern part of that province, and retained the weſtern himſelf.*

Giraldus Cambrenſis, and other Engliſh hiſtorians, who wrote in thoſe times, call ORuark *King of Meath*, not diſtinguiſhing this temporary adminiſtration (which the Iriſh annaliſts tell us was given to him before, and continued ſome time after the coming of the Engliſh into Leinſter) from the royalty of Meath, which ORuark could not take by the Iriſh conſtitution and fundamental laws, becauſe he was not of the family to which the election of a king of that realm had been confined. Our writers ſometimes call him *Rex Monoculus Midiæ*, becauſe he had but one eye. His name is ſometimes written ORouark, or ORorick; but in this and other Iriſh names I follow the orthography of Mr. OConor.

P. 72. *This blockade, which entirely prevented the importation of any proviſions, had continued almoſt two months*, &c.

V. Harris's Hibernica, p. 11, 12.

The hiſtorical poem on the ſubject of this war (an account of which has been given in ſome former notes to this book) ſays, that Strongbow, induced by the danger he was in of periſhing by famine, ſent Lawrence OTool, the archbiſhop of Dublin, to negotiate with Roderick, and offer that king, if he would raiſe his ſiege, to hold Leinſter, as his vaſſal, by homage and fealty; which Roderick proudly refuſing, and inſiſting, that the earl ſhould give up all his conqueſts, and with all his forces leave Ireland at a day aſſigned to him, Milo de Cogan propoſed that deſperate ſally, which preſently afterwards raiſed the ſiege. But Giraldus

Giraldus Cambrenſis (whoſe authority I greatly prefer to that of this unknown rhymer, for reaſons before given) ſays nothing of this offer.

P. 73. *Few were ſaved; the Engliſh cavalry intercepting their flight, and an Iriſh chieftain, or prince, who had given hoſtages to the governor, joining in the purſuit with all his clan.*

The hiſtorical poem, cited in the foregoing note, ſays, that Milo de Cogan, before the action began, addreſſed the Iriſh chieftain, here mentioned, in theſe words; "If you perform what I require of you, I "will reſtore to you your hoſtages ſafe and free: but you muſt firſt "take an oath, that, when the enemy and we ſhall fight, you and your "men will ſtand in ſome convenient place, where you may behold our "actions as neutrals; and, if you ſhall ſee that they faint and fly be"fore us, help us to kill them; but if we, like cowards, turn our "backs, and are purſued, kill as many of us as you can, that we may "not die by their hands." The author adds, that, hereupon, the Iriſh chief took the oath, and poſting himſelf near the wall with a body of his people, as ſoon as he ſaw the Norwegians routed and flying, eagerly followed the chace, and ſlew as many of them as the weapons of his men could reach. But of this very extraordinary ſpeech and oath nothing is ſaid by Giraldus Cambrenſis, or in the Iriſh annals. Lambeth MS. See alſo Harris's Hibern.

P. 76. *On his way he was ſtopt, in the country of Idrone, at a narrow paſs, which O Ryan, the petty prince of that diſtrict, had ſeized and fortified.*

We are told by Stanihurſt, in his book *de Rebus in Hybernia geſtis*, l. iv. p. 171, 172, that, in one of theſe actions againſt the Iriſh, Strongbow with his own hand, in the preſence and view of his army, ſlew his only ſon, a youth of about ſixteen years old, who at the head of a troop of horſe had charged the enemy, and, finding they did not give way, returned back with his men to the body of the army, commanded by his father. In proof of this the hiſtorian alledges two monuments in a church at Dublin, one of Strongbow, on which is a marble ſtatue of that earl; and another of his ſon, on the left-hand of the earl's, which has alſo upon it an image, repreſenting that youth, holding up, with both his hands, his entrails, which ſeem falling out. Theſe figures (Stanihurſt tells us) by the fall of part of the church, in the year

1566, were much defaced, but repaired and beautified by order of Sir Henry Sidney, who was then lord lieutenant of Ireland. Another modern hiſtorian of the ſame country ſays, that on the tomb of the ſon theſe verſes were engraved:

" *Nate ingrate, mihi pugnanti terga dediſti;*
" *Non mihi, ſed genti, regno quoque, terga dediſti.*

At what time theſe two monuments were firſt ſet up we are not told; but Stanihurſt ſpeaks of them as ancient, and adds, that the fact was *omnium ſermone celebratiſſimum.* To me it ſeems, that the ſtory was merely traditional, and that, without much enquiry into the truth, the ſon's ſtatue was erected by ſome of the Engliſh at Dublin, in the attitude here deſcribed: for there is not the leaſt mention of it in Giraldus Cambrenſis, or any contemporary writer; and it is hardly poſſible that they all ſhould have omitted to take notice of ſo remarkable a fact, which, if it had really happened, could be no ſecret.

See Hanmer Chron. p. 146.

P. 78. *On receiving this meſſage, he turned aſide from Wexford and went to Waterford,* &c.

In the hiſtorical poem before-mentioned an account is given of ſome matters, tranſacted between Strongbow's arrival at Waterford and his going into England, of which no mention is made in Giraldus Cambrenſis or in the Iriſh annals. I will deliver it to the reader as tranſlated into Engliſh proſe by Sir George Carew. " The earl was no ſooner " come to the city, but a meſſenger from OBrian, king of Limerick, " repaired unto him from his maſter, praying him with all his forces " to march into Oſſory againſt Donald, that common enemy (*viz.* Do- " nald king or prince of Oſſory). The cauſe of friendſhip between the " earl and OBrian was, that OBrian had married one of the daughters " of Dermod, king of Leinſter, and half ſiſter to the earl's wife. Un- " to the meſſage the earl made anſwer, that he would ſatisfy OBrian's " requeſt; and they met at Idough, and, being joined, their forces were " two thouſand ſtrong. Donald, fearing the approach of his enemies, " ſent to the earl to deſire him that he might have a ſafeguard to come " unto him, and that he doubted not but to give him ſatisfaction. The " requeſt was granted, and Maurice de Prendergaſt was ſent for him; " but he, for the more ſecurity, obtained the words of the earl and " OBrian, and the oaths of all the chieftains of the army, that the " king

See Harris's Hibernica, p. 13, 14.

" king of Offory ſhould come and return in ſafety; which done, he " went to Donald, and within a few hours he brought him to the camp, " in the preſence of all the army. The earl and OBrian charged him " with divers treaſons and practices, which he had attempted againſt " his lord, the king of Leinſter deceaſed; and OBrian and all the cap- " tains diſallowing of his excuſes counſelled the earl to hang him; and " OBrian, without delay, commanded his men to harraſs and ſpoil " Donald's country, which willingly they performed. Maurice De " Prendergaſt, miſliking theſe proceedings, and ſeeing the danger the " king of Offory was in, preſently mounted on his horſe, commanded " his company to do the like, and ſaid, "My lords, what do you mean " to do?" and turning to the captains he told them, that they diſho- " noured themſelves, and that they had falſified their faiths unto him: " and ſware by the croſs of his ſword, that no man there that day " ſhould dare lay hands on the king of Offory; whereupon the earl, " having ſenſe of his honour, and calling to mind how far it was en- " gaged, delivered Donald unto Maurice, commanding him to ſee him " ſafely conveyed unto his men. Upon the way, in their return, they " encountered OBrian's men, laden with the ſpoils of Offory. Pren- " dergaſt charged them, ſlaying nine or ten of theſe freebooters: and " having brought Donald to his men, lodged with him that night in the " woods, and the next morning returned to the earl."

What credit this ſtory, unſupported by the teſtimony of any other writer, may be thought to deſerve, I cannot tell: but it is not improbable, and (ſuppoſing it true) does very great honour to Maurice De Prendergaſt.

We learn from the ſame authority, that ſome time before this, in the year 1169, Maurice De Prendergaſt, having had a quarrel with Dermod, in whoſe ſervice he then was, entered into that of this Donald, prince of Offory, and led away with him two hundred ſoldiers, at the head of whom he ſerved the latter againſt the king of Leinſter, and againſt OMore, lord of Leix, which territory contained a great part of that province now called the Queen's County. He forced OMore to ſubmit, and give hoſtages to Donald; but afterwards was obliged by Dermod and the Engliſh, whoſe aſſiſtance OMore had ſecretly implored, to retire out of Leix; and, at his return into Offory, he and all his Welſh band would have been treacherouſly murdered by the people

V. Hibernica, p. 8, 9.

of that country for the ſake of their ſpoils, and to ſave the wages due to them, if Donald had not preſerved them, by refuſing his aſſent to ſo villanous a deſign. It ſeems he deſired that they ſhould ſtay in his ſervice; but, they reſolving to return immediately into Wales, his ſubjects reſumed their ill intentions againſt them, and way-laid them in a paſs between Kilkenny and Waterford with two thouſand men, of which Prendergaſt having fortunately received information, he eſcaped the danger, by pretending to make a new agreement, that he and his men would ſerve the prince of Oſſory ſome months longer; on the news of which the ambuſcade abandoned the paſs, and the Welſh, by a midnight march, got ſafe into Waterford, and from thence into Wales, out of which Prendergaſt afterwards returned into Ireland. He now repaid Donald, for having protected him as far as he could againſt the perfidy of his people, by guarding him in the manner above-related.

P. 14. The poem adds, that after the return of that prince, OBrian went back to Limerick, and the earl of Pembroke to Fernes, where he remained eight days, in which time Murrogh OByrne, who ever-more had been a traitor to king Dermod, was brought priſoner to him, and was immediately beheaded, and his body was caſt to the dogs, and with him a ſon of Daniel Kavenagh. But at the ſame time the earl gave to Donald Kavenagh, the ſon of Dermod, lands in Leinſter, and to another Iriſhman, who had deſerved well of him, the country of Kenſelagh. I thought it worth while to mention theſe circumſtances from this anonymous writer, yet obſerving, that Sir James Ware takes no notice of either of theſe grants (probably becauſe he did not find any authentick proof of them) though he tranſcribes from this poem ſeveral other grants there mentioned. For what reaſon this whole account of Prendergaſt's adventures (if we ſuppoſe it true) is omitted in the hiſtory of the conqueſt of Ireland by Giraldus Cambrenſis, it is hard to conceive. I will only add, that the prince of Oſſory, here called Donald, and whoſe ſurname was Fitz-patrick, in the Iriſh annals is called Donchad.

P. 78. *He did ſo, and found him at Newnham in Glouceſterſhire, preparing to paſs, with an army, into Ireland.*

Gervaſe

Gervaſe of Canterbury ſays, that common report aſſigned three reaſons for this expedition of the king into Ireland. One was, that the kings and people of that iſland had ſent embaſſadors to implore him to come to their aſſiſtance againſt the hoſtilities of the earl of Pembroke, and to take upon himſelf the dominion of Ireland: another was, that the ſaid earl had offered to hold his acquiſitions under him: and the third was, that he might more eaſily avoid, or be leſs expoſed to, the ill effects of a ſentence of interdict, if any ſuch ſhould be pronounced: which this author conceives to have been his principal motive. The firſt of theſe ſuppoſed reaſons would, if the fact had been true, be very important, with reſpect to the foundation of Henry's title to Ireland; but, as no mention is made of it in any record of that time, or in the hiſtory of this tranſaction by Giraldus Cambrenſis, I judge it to be a falſe report. Nor can I think that the fear of a ſentence of interdict being laid on his kingdom would have induced him to quit it; but, on the contary, I preſume it would have been a ſtrong reaſon for his delaying this enterprize till that danger was over, if he had really feared it, which he did not at this time. The fair opportunity which offered itſelf to him, of acquiring to his crown the dominion of Ireland, and the danger of leaving it in the earl of Pembroke's poſſeſſion, independent on that crown, were the only real motives of this undertaking.

(Ut fertur.)

V. Chron. Gerv. ſub ann. 1171. col. 1419, 1420.

P. 83. *Soon after the king's arrival at Waterford, the citizens of Wexford brought to him their captive, Fitz-Stephen, as a criminal, in bonds*, &c.

The hiſtorical poem, often mentioned in the former notes to this book, ſays, that when Henry lay at Pembroke, ſeveral of the Wexfordians who held Fitz-Stephen priſoner, paſſed the ſea, and procuring admittance to that king, beſeeched him to accept them as his humble ſervants, ſaying, "That they purpoſely came to him to let him know, "that they had in their priſon Robert Fitz Stephen, who had always "been a traitor to him, and had rebelled againſt him both in Wales "and England, and that they would deliver him into his hands to do "his pleaſure with him." They alſo complained, "That he had "wrongfully, with forces, entered into Ireland, ſlain many of their "people, burnt their towns, and deſtroyed their country. The king "bad them welcome, thanking them for their good ſervice done to him "in taking ſuch a notorious traitor; and told them, they ſhould ſee that

See Lambeth MS. and Harris's Hibernica, p. 16.

" he would, as ſoon as he came into Ireland, puniſh Fitz-Stephen accord-
" ing to his demerit; and ſo he diſmiſſed them to their contentment."
But this writer adds, " That the reaſon which moved the king to ſeem
" ſo highly offended with Fitz-Stephen proceeded out of his fear, that
" if he had not given them a pleaſing anſwer, as he did, in their malice
" and fury they would have murdered him in priſon."

What is here ſaid of this gentleman's having rebelled againſt Henry both in Wales and in England, is not agreable to any accounts of his conduct from other writers of that age. The reſt may be true; yet the ſilence of Giraldus Cambrenſis about it renders it very doubtful; as that author could hardly be ignorant of a fact ſo public as this, in which his near kinſman was concerned, and which he had no intereſt to conceal. I therefore chuſe to follow him in dating the firſt application of the men of Wexford to Henry, on the ſubject of Fitz-Stephen, at Waterford, not at Pembroke.

P. 87. *Others were made for the particular benefit of the clergy, to enforce the payment of tythes to the parochial prieſts, to exempt all the lands and poſſeſſionsof the church from all impoſitions exacted by the laity, particularly thoſe moſt uſual in Ireland,* &c.

Mr. Carte and other modern hiſtorians ſuppoſe, that the fourth canon of this council was made againſt *Coign and Livery:* but theſe were impoſitions introduced into Ireland by the Engliſh in later times, yet of much the ſame nature with what the Iriſh called *Bonaght*, to which, and another cuſtomary exaction, called *Coſherings*, this canon had a particular reference. (See Sir J. Ware, c. 8, and 18. Sir J. Davies, p. 175, and 244.)

P. 97. *All theſe injunctions the legates, by the authority of the pope, commanded the king to obſerve with truth and ſincerity, for the remiſſion of his ſins; becauſe, (as they ſet forth in the preamble to the articles) though he had taken in their preſence a voluntary oath, that he neither ordered, nor deſired, the murder of Becket, and was exceedingly grieved when the report thereof was brought to his ears; yet he feared, that the malefactors who had ſlain that prelate took occaſion to commit that wicked act from the paſſion and perturbation they ſaw in him.*

Gervaſe of Canterbury has added to what the legates ſay on this point, that he took this oath becauſe the above-mentioned malefactors were out of his power, "*quia malefactores illos qui præfatum archiepiſcopum occiderunt habere non poterat*," although (ſays this author) they had paſt ſome time with him in the pleaſures of hunting, after the crime was committed, ("*qui tamen in deliciis venationum aliquandiu poſtea fuerant cum ipſo commorati.*") But the ſilence of all other writers contemporary with Henry, and the accounts given by ſome who lived in thoſe days, entirely refute this calumny on that prince. Indeed he muſt have been abſolutely out of his ſenſes, to admit to his *preſence* and *pleaſures* men guilty of a crime which he took ſuch pains to diſclaim, and for which they were actually under a ſentence of excommunication, while he himſelf was ſuing to be abſolved from the guilt of having given occaſion to it, though againſt his will. Collec. 1422.

P. 98. *And to the church he gave up nothing by the terms of this agreement, which he had not before propoſed to yield.*

This appears from what is ſaid in the text on this ſubject, and the authentic teſtimony there recited. Yet, in an extract from Alanus in Hiſtoriâ Quadripartitâ, which is printed in the fifth book of Becket's epiſtles, and called the 88th letter, after mention made of the article, by which the king was injoined to give up all cuſtoms introduced *in his times* againſt the church, there is this additional clauſe, *Siquæ autem malæ fuerunt ante tempora ſua, illas juxta mandatum D. Papæ, et conſilio religioſorum virorum temperabit.* But neither this, nor any other paſſage in the hiſtory, or even the letters of thoſe times, can be of any authority againſt the charter, or public inſtrument of the reconciliation, drawn up by the cardinals who were employed therein, ſealed by the king himſelf, and ſent to the pope as a record of the conditions on which it had been granted. If any other evidence could be wanting, the next beſt is the letter written by the king on the ſubject of this tranſaction, and that from the cardinals to the archbiſhop of Ravenna; but in none of theſe is any mention made of this clauſe. I therefore reject it as falſe. It muſt be alſo obſerved that many ancient hiſtorians date the time of this tranſaction on the fifth of the calends of October in the year 1172: but it appears by the charters, by the letter of the two legates, and by that of the king above-mentioned, which cannot err in this point,

point, that it was concluded before the feaſt of Pentecoſt in that year. The invention of the Popiſh clergy has been wonderfully fertile in forgeries on this matter. Nicholas, cardinal of Arragon, who flouriſhed about the year 1350, in his lives of the Roman Pontiffs, (edit. Mediolen. 1723) has theſe words, "*Præterea ego et major filius meus rex ju-*
"*ramus, quod à Dom. Alexandro Papâ, et ejus Catholicis ſucceſſoribus re-*
"*cipiemus et tenebimus regnum Angliæ, et nos et noſtri ſucceſſores in perpe-*
"*tuum non reputabimus nos Angliæ reges veros, donec ipſi nos Catholicos reges*
"*tenuerint.*" A moſt impudent falſehood, without the leaſt foundation or colour of truth!

Almoſt all the other parts of this pretended oath are differently worded from that which the two legates, in whoſe preſence it was made by the king, and who abſolved him thereupon, declared to the world by the public inſtrument before-mentioned, which the reader may ſee exactly tranſcribed in the appendix to this book.

There is likewiſe a revocation of the Clarendon conſtitutions, pretended to have been made by the king before the ſame legates, and entitled *Revocatio articulorum quos rex Henricus ſecundus voluit eccleſiam Anglicanorum obſervaſſe*, of which I have ſeen a copy. It appears to have been forged by ſome Engliſh monk, and wants no other confutation than the undeniable teſtimony of the legates themſelves.

P. 99. *And concluded by ſaying, that they were all traitors, who did not diligently endeavour to deliver and free him from the hoſtile attacks of this one man.*

The words in the original are, "*Quod omnes proditores erant, qui*
"*eum, adhibitâ operâ et diligentiâ, ab unius hominis infeſtatione nolebant*
"*expedire.*"

P. 101. *For it appears by records, that Hugh de Morville was alive in the ſecond year of king John*, &c.

A pedigree of the Dacre family drawn up from authentic records and evidences, both public and private, by Richard St. George Norroy king of arms, and ſigned by him, and by William Camden Clarencieux, agrees entirely with the account of Hugh de Morville given by Dugdale in his Baronage. From both it appears, that the huſband of Heloiſe or Helviſia de Stuteville was one of the murderers of Becket. And

there is no evidence of there having been any other Hugh de Morville. This gentleman was forester of Cumberland, and baron of Burgh upon Sands in that county. It appears that he was dead in or before the ſixth year of king John; for in that year Ada and Joan, his daughters and co-heirs, divided his lands. There is nothing improbable in the length of his life: for ſuppoſing him thirty or thirty-five years old at the time when he murdered Becket, from that to the ſixth of King John are but thirty-four years. But with regard to William de Tracy, another of Becket's murderers, there is certainly an error in the evidences given by Dugdale. He tells us, that this baron had the title of ſteward or juſticiary of Normandy in the nineteenth of Henry the ſecond, but held it not much more than two years longer; Richard biſhop of Wincheſter being then ſubſtituted in that office. For which he quotes Jorval (commonly called Brompton's Chronicle) where indeed the name of William de Tracy, with the title of *Seneſcallus*, is put among the witneſſes to the charter of agreement between King Henry the ſecond, and William king of Scotland, concluded at Faloiſe. But in Mr. Rymer's more authentick edition of that charter it is William de Curcy, *Willielmo de Curcy ſeneſcallo*. Dugdale has likewiſe confounded the aſſaſſin of Becket with his grandſon by a daughter married to Sir Gervaſe de Courtenai, which grandſon, named William, took the ſurname of Tracy, and ſerved in an expedition againſt the Welſh in the year 1222, the ſeventh of Henry the third; whereas it appears from two rolls which are cited by Mr. Madox in his Hiſtory of the Exchequer, and in his Baronia, that the William de Tracy who ſlew Becket was dead in the firſt year of King John. The records are in theſe words, "*Willielmus de Pyreu dat D. regi mille* cc. *libras Andegavenſes pro habendâ integre terrâ Willielmi de Tracy, ſicut idem Willielmus eam habuit die quâ obiit. Ita quod ſtabit ad rectum, ſi quis inde adverſus eum loqui voluerit.*" (Hiſtory of the Exchequer, p. 362, note n, Oblata Norm. 2 Joh. m. 4.) "*Oliverus Traci debet* M. *Marcas pro habendâ baroniâ Willielmi de Traci, quæ valet in Anglia* c. *l. Sterling, et in Normannia* cc. *l. Andegav. ſalvo jure et clamo cujuſlibet in ea. Sed non debent requiri à prædicto Olivero, quia terras illas non habet, et pro quibus Henricus de Traci finem fecit ſicut infra continetur.*" (Madox Baronia, p. 67, note, col. 2. Magn. Rot. 1 Joh. Rot. 14, 6. Tit. Deveneſcia.) Theſe records prove undeniably, that the William de Tracy who ſerved in the reign of Henry the Third

See Brompton's Chron. p. 1105, 1116.

See Rymer, t. 1. p. 40.

was

was not the ſame who lived under Henry the Second; but he does not inform us exactly at what time the latter died. Yet it ſeems pretty evident that he had not been dead very long before the firſt of King John, when his ſucceſſion was thus diſpoſed of in England and Normandy, with a ſaving to the rights of other claimants. In Kiſdon's Survey of Devon it is ſaid, that he ſpent the latter part of his life at Wollacomb in the pariſh of Mortbay in Devonſhire, *a very retired place*, and lieth buried in an iſle of that church built by himſelf, under an erected monument, with his portraiture engraven on a grey marble ſtone, *&c.*

Amongſt the records of the church of Canterbury there is an original deed, by which it appears that a William de Tracy gave the manor of Doccumb in Devonſhire to the chapter of Canterbury, for the ſalvation of his own ſoul and the ſouls of his predeceſſors, *and for the love of St. Thomas archbiſhop and martyr of venerable memory.* But whether this was the grandfather or the grandſon I find no proof. I rather ſuppoſe it was the latter. Probably one or two of the aſſaſſins of Becket might die in the Holy Land, or on the way thither; and the others, who returned, lived retired for many years, which might occaſion a falſe report of their death.

P. 109. *The ambaſſadors tell the king, that they could draw from Louis no anſwer to the ſalutation delivered by them in his name,* &c.

L. ii. c. 27. We are told by W. of Newbury, a contemporary hiſtorian, that when Henry diſcovered his ſon's flight to Louis, he ſent to that monarch ſome perſons of great dignity *(viros honoratos)* to demand the prince back, in virtue of his paternal authority; but at the ſame time to promiſe, that if any thing, with regard to him, ſeemed to want amendment, he would ſpeedily amend it by the advice of Louis. Whereupon Louis aſked them, "Who ſent them with that meſſage?" They anſwered, "The king of England." But he replied, "That "is falſe: for the king of England is here, and ſends no meſſages by "you. But if you continue to give this title to his father, who was "once king of England, that king (I would have you to know) exiſts "no longer: and his perſiſting to act in that character, after having "publickly reſigned the kingdom to his ſon, is a fault that muſt be "ſpeedily corrected." It is not very probable, that Louis ſhould ſpeak of Henry's crowning his ſon, as *publickly reſigning his kingdom to that prince*;

prince; ſince he could not but know, from the uſual practice in France, that ſuch coronations imported no ſuch thing, but were meant as a ſecurity to the ſucceſſion. And nothing is ſaid of this anſwer in the letter to Henry from thoſe whom he ſent to that king. If Louis did ſpeak theſe words, he muſt have alluded to thoſe that were ſaid to have been ſpoken by Henry when he miniſtered to his ſon at the coronation feaſt: but thoſe, as well as the action which they accompanied, were extravagant compliments, on which no ſtreſs could reaſonably be laid.

P. 109. *He ſaid, that Henry had frequently, on very ſlight pretences, violated the faith which they had mutually pledged the one to the other*, &c.

By this he probably meant the promiſes Henry had made to go with him to the Holy War; for of any other breach of faith in Henry towards him I find no trace, and for that he had good excuſes.

P. 111. *Before this letter came to him, or about the ſame time, Richard and Geoffry were ſent by their mother to Paris.*

William of Newbury ſays, that they went thither in company with their elder brother, who came ſecretly into Aquitaine, and drew them away from thence with their mother's conſent: but it is more probable, that (as other hiſtorians relate) he continued with Louis, and ſhe ſent them to join him.

V. Neubrigenſ. l. ii. c. 27.

V. Benedict. Abb. et Brompton, ad ann. 1173.

P. 116. *Peter of Blois therefore wrote according to his own principles of religion and government, or accommodated his ſtyle to the wiſhes and pretenſions of the court of Rome*, &c.

This was the opinion of the moſt ſagacious Dr. Stillingfleet. In his anſwer to Mr. Creſſy's Epiſtle Apologetical he ſays of Petrus Bleſenſis, "We muſt conſider that he was always a ſecret friend of Becket and "his cauſe in the whole quarrel, and being employed by the king in "his ſtraits to write to the Pope to excommunicate his ſon, he, knowing "very well the prevalent arguments in the court of Rome, might ſtrain "a compliment in the behalf of his maſter to the Pope, for which he "had little cauſe to thank him; although, it may be, Petrus Bleſen-"ſis expreſt his own mind, whether it were the king's or no."

See his works, vol. v. p. 727.

I cannot but think this a much better method of accounting for the difficulty, than that forced one which Mr. Carte has laboured to give

in his hiſtory of this reign. There is a paſſage in a letter of King Henry the Second to the emperor Frederick Barbaroſſa, which is preſerved in the hiſtory of that prince's life by Radivicus Friſingenſis, from whence a zealous aſſertor of the Imperial prerogatives might draw as good a proof that Henry the ſecond had ſubjected to Frederick Barbaroſſa and the empire his kingdom of England and all his foreign dominions, as Baronius and Bellarmine have drawn from the other, to prove the ſubjection of England to the Pope. The words are theſe: "*Regnum noſtrum, et quicquid ubique noſtræ ſubjicitur ditioni, vobis exponimus et veſtræ committimus poteſtati, ut ad veſtrum nutum omnia diſponantur et in omnibus veſtri fiat voluntas Imperii.*" Yet, ſtrong as theſe expreſſions are, they really meant nothing more than a high compliment to the Emperor in return for one made by him; as will appear by the whole letter, which the reader may ſee tranſcribed in the Appendix to this book. And Radivicus obſerves in another part of his hiſtory (l. ii. c. 76.) that the ſame hyperbolical ſtyle was uſed in writing to this prince by all the kings in Europe, notwithſtanding the conſtant jealouſy they had of his power. "*Reges Hiſpaniæ, Angliæ, Franciæ, Daciæ, Boemiæ, atque Ungariæ, quamvis ſuſpectam ſemper ejus haberent potentiam, ſibi adeo per amicitiam et ſocietatem devinxit, et ad ſuam voluntatem ſic inclinatos habuit, ut quoties ad eum literas vel legatos miſerint, ſibi cedere auctoritatem imperandi, illis non deeſſe voluntatem obſequendi denuncient.*" Yet this too, I preſume, proceeded rather from the ſecretaries, who wrote the letters, than from the princes themſelves; the eloquence of that age being turgid, and the monks, whoſe pens were employed in theſe affairs, ſtraining the compliments they were ordered by their maſters to make beyond the bounds of propriety, and without a due regard to the dignity of thoſe in whoſe names they wrote. That the Pope and the Emperor had a preeminence of rank and dignity, the one as ſpiritual, and the other as temporal, chief of that ſyſtem, in which the whole weſtern world of the Roman communion was conſidered as one body, all the princes acknowledged: but this implied no ſubjection.

V. l. i. c. 7. Radivci Friſin. Append. ad Ottonem De Reb. Geſt. Fred. I. Imp.

P. 131. *Of the foot very few eſcaped alive*, &c.

Some writers of that age make the number of Flemings ſlain in this battle ten thouſand. If this be true, the heavy-armed infantry, called by William of Newbury *pedites fortes*, muſt have been fewer in number than the archers and light horſe, whom that author does not mention.

P. 132.

P. 132. *After the rout of the Flemings, Henry's forces, by which that victory was obtained, went into winter quarters; the late ſeaſon not permitting them to undertake the ſiege of Framlingham Caſtle.*

Diceto, and after him Matthew Paris, relates, that the generals of the king's army, by an agreement with Hugh Bigot corruptly made on their part, permitted a body of fourteen thouſand Flemings, who at this time were pent up in Framlingham Caſtle, where, by reaſon of their multitude, they muſt neceſſarily have periſhed for want of food if the place had been cloſely blockaded, to go out of that fortreſs, and return into Flanders, giving them a ſafe conduct as far as Dover, and providing ſhips in that port to carry them over. But how all theſe Flemings came to be in the caſtle, does by no means appear. That any were left there when the earl of Leiceſter marched out is not ſaid by any writer who lived in thoſe times; and Diceto tells us himſelf, the army under that earl was almoſt entirely deſtroyed or taken. Nor can one ſuppoſe that Hugh Bigot, who had forced them to go out from the inconvenience or danger of keeping them longer there, would immediately afterwards have admitted another and a greater army of their countrymen into his caſtle. It is alſo highly improbable that the conſtable Hugh de Bohun, or the earl of Cornwall the king's uncle, or any of the nobles who had ſerved him ſo well againſt the earl of Leiceſter, ſhould be gained by bribes to do any thing contrary to his ſervice. It ſeems therefore that no credit is due to this ſtory.

P. 136. *The biſhop of Lincoln, informed of the retreat of the Scots, built a caſtle at Topcliff*, &c.

Theſe caſtles, which were ſo ſoon run up, were probably built of wood, protected by the ſteep hills on which they were ſituated, and by a circle of walls, or ſometimes two, with deep ditches and ramparts, which were made of the earth dug out of the ditches. There were others of which the chief defence was the water with which they were incloſed, being placed in low grounds, which had running ſtreams in abundance; and theſe were called *Motæ*, from whence we derive the word Moats.

P. 160. *Henry did not purſue them; the forces he had with him there, though ſufficient to ſecure his principal object, the defence of the town, not being able to force ſo ſuperior an army in the open field.*

Some ancient writers ſay, that, to ſecure his retreat, Louis treated with Henry, and having promiſed, upon oath, to confer with him, the next day, for ſettling the conditions of a general peace, obtained from him thereby a ſuſpenſion of hoſtilities, which he uſed to draw off his army unmoleſted, and then broke his faith, by not keeping the appointment he had ſolemnly made. But it does not appear that ſuch a fraud could be neceſſary for him; the confederates being ſo ſuperior to Henry in the number of their forces, and eſpecially of their cavalry, that, as they retired in good order, it would not have been prudent for him to attack them, at the hazard of a battle. William of Newbury, one of the beſt hiſtorians of thoſe times, ſays nothing of this treaty; nor is it mentioned by Diceto, another contemporary writer, who ſpeaks particularly of other leſs important occurrences in the ſiege of Rouen, and with great blame of Louis for a ſuppoſed breach of faith in the affair of Verneuil.

P. 174. *And, for ſome time afterwards, dined together, every day, at the ſame table, and lay, every night, in the ſame bed.*

From hence it ſhould ſeem, that, for ſome reaſon not explained, young Henry's queen was not yet reſtored to her huſband. Probably ſhe had been confined in the Tower of London, and it was not thought proper to diſcharge her from thence till the two kings met the parliament aſſembled at Weſtminſter eleven days after their landing.

P. 179. *He was attended by the king of Scotland, who brought thither with him all the biſhops, and freeholders of this realm, from the greateſt to the leaſt,* &c.

Theſe are the words of Benedictus Abbas, "*Et habuit ſibi obviam "Willielmum Regem Scotiæ, qui ſecum adduxerat omnes epiſcopos, et co-"mites, et barones, et milites, et francos tenentes terræ ſuæ a maximo uſ-"que ad minimum,* &c."

It muſt be obſerved, that the freeholders in Scotland at this time were much fewer in proportion to the number of the people, than the freeholders in England; the Scotch having no tenants in free ſocage.

P. 185, 186. *For he took from Hugh de Lacy the government of that kingdom,* &c.

I pre-

I preſume that Hugh de Lacy, after the ſiege of Verneuil, which city he had defended, returned into Ireland, about the middle of Auguſt, and executed the functions of chief governor there till the earl of Pembroke was ſent, about the end of autumn, to take that poſt. The fragment aſcribed to Maurice Regan expreſsly ſays, that *the city of Dublin was by Lacy rendered to that earl, and that Lacy then retired with all his followers into Meath to inhabit the ſame.* This name is ſometimes written Lacey in old authors, but the charters have it Laci or Lacy.

V. Benedict. Abb. t. i. p. 56.

V. Harris's Hibernica, p. 18.

P. 213. *The monk who relates this repreſents it as ſhewing the impiety of the king; but it only ſhews that he thought this ſuperſtitious method of trying a criminal accuſation was fraudulently managed; and ſo, doubtleſs, it was; or no man could ever have been acquitted by it.*

It is a ſtrange notion of the Preſident Monteſquieu in his *Eſprit des Loix*, that, in a people accuſtomed to the uſe of arms, the ſkin would become too hard and callous to receive impreſſion enough from the hot iron or boiling water, to have it appear three days afterwards; or that, if it did appear, it was a mark that he who underwent this proof was an effeminate man! His words are, "*Qui ne voit que chez un peuple exercé à manier les armes, la peau rude et calluſe ne devoit pas recevoir aſſez l'impreſſion du fer chaud, ou de l'eau bouillante, pour qu'il y parut trois jours aprés? Et s'il y paroiſſoit, c'etoit une marque que celuy qui faiſoit l'epreuve etoit un effeminé.*" He adds, that the French peaſants handle hot iron at pleaſure with their callous hands; and that the hands of women who work hard could likewiſe reſiſt the heat thereof. *Nos paiſans avec leurs mains caleuſes manient le fer chaud comme ils veulent; et quant aux femmes, les mains de celles qui travailloint pouvoient reſiſter au fer chaud.*

Eſprit des Loix, l. xxviii. c. 17.

Another French writer very juſtly expreſſes his ſurpriſe at the Preſident's thinking, *that their anceſtors had hands like the paws of a crocodile*, and aſks, *in what province of France the peaſants plunged their hands and wriſts in boiling water without its leaving any mark?* But he ſhews by the inſtance of the common fire-eaters, that there were *artifices* by which the impreſſion of the fire might be reſiſted.

Eſſais Hiſtoriques ſur Paris, t. i. p. 195.

The Preſident has another extraordinary paſſage in that part of his book where he treats of judicial combats or duels. He ſays, this kind of proof had ſome reaſon founded on experience; for, in a nation wholly warlike, cowardice implies many other vices, particularly the want of a

L. xxviii. c. 17.

due ſenſe of honour, notwithſtanding all the force of education and example; and uſually in ſuch a nation perſons well born, who have that ſenſe as they ought, will not be deficient in force or ſkill, becauſe they will exerciſe themſelves all their lives in ſuch things as are neceſſary for the obtaining of honour. " *La preuve par le combat ſingulier avoit quel-* " *que raiſon fondée ſur l'experience. Dans une nation uniquement guerriere* " *la poltronerie ſuppoſe d'autres vices; elle prouve qu'on a reſiſté à l'educa-* " *tion qu'on a reçue, et que l'on n'a pas été ſenſible à l'honneur, ni conduit* " *par les principes qui ont gouverné les autres hommes; elle fait voir qu'on ne* " *craint pas leur mepris, et qu'on ne fait point de cas de leur eſtime; pour* " *peu qu'on ſoit bien né, on n'y manquera pas ordinairement de l'adreſſe qui* " *doit s'allier avec la force, ni de la force qui doit concourir avec le cou-* " *rage, parce que faiſant cas de l'honneur on ſe fera toute ſa vie excercé à* " *des choſes ſans leſquelles on ne peut l'obtenir.*" But, ſurely, however warlike a nation might be, and however trained to arms, there would be a great difference between the ſtrength and the ſkill of different men, and it could not be certain that the advantage would be on the ſide of that combatant whoſe cauſe was the juſteſt. Nor did it follow, that a man was either a coward, or inſenſible to honour, becauſe he was ſlain in a duel. How then could experience ſhew, that there was any reaſon in this method of tryal?

L. xvii. c. 20. The ſame writer obſerves, that gentlemen fought againſt each other on horſe-back, and with their arms, but villeins on foot, and with ſticks; from whence it followed, that the ſtick was the inſtrument of outrage, becauſe a man beaten with it had been treated like a villein. " *Les gentilſhommes ſe battoient entr'eux à cheval et avec leurs armes, et* " *les vilains ſe battoient a pied et avec le bâton. De la il ſuivit que le bâton* " *etoit l'inſtrument des outrages, parce qu'un homme qui en avoit eté battu,* " *avoit eté traité comme un vilain.*" But, according to this reaſoning, the ſtriking with a ſtick would have diſhonoured a gentleman as much as being ſtruck, *becauſe it was uſing the weapon of a villein*; and if a gentleman had received any number of blows with the flatt of a ſword, or with any other weapon which gentlemen uſed, it would not have been conſidered as any diſgrace! Such conceits are the blemiſhes of Monteſquieu's book, which in many reſpects deſerves the higheſt praiſe; but he had the fault from which writers with warm imaginations and great ſubtilty of wit are ſeldom quite free, an exceſſive deſire of ſaying ſome-

ſomething new upon every ſubject, and differing from the common opinions of mankind.

P. 213. *And the ſame modes of trial were cuſtomary, long before, in many heathen nations, particularly among the Celtic tribes, who in their early migrations out of the eaſt, brought with them theſe ſuperſtitions, and ſpread them over the greateſt part of Europe.*

The Celts believed that intelligences reſided in water and fire, which had the power of diſtinguiſhing the innocent from the guilty. The Germans tried by water the legitimacy of their children. See Pellontier Hiſtoria des Celtes, t. ii. c. 9, 10.

Et quos naſcentes explorat gurgite Rhenus.

Claudius in Rufini. l. ii.

The Greeks, who drew many cuſtoms from the antient Pelaſgi, the firſt inhabitants of their country, were not unacquainted with trials by hot iron; for mention is made of that ordeal in the Antigone of Sophocles. Monſ. Pelloutier has proved that the Pelaſgi were Celts. Heliodorus, in his Æthiopicks, a book full of antient learning, particularly with regard to religion, makes Chariclea, a prieſteſs of Apollo at Delphi, prove her virginity by walking on burning plough-ſhares without harm. Strabo mentions a temple under Mount Soracte, near which there was a grove, dedicated to the Nymph Feronia, where men walked unhurt over heaps of burning coals. The prieſts of this temple had the ſecret of preventing the action of the fire on the naked feet: and this was a remnant of the antient Celtic religion, eſtabliſhed in Italy before the Greek colonies had fixed themſelves there. The Roman religion was a mixture of the Celtick and Grecian. I will end this note by obſerving, that even in our days the vulgar have tried witches by throwing them into water; a traditional ordeal derived from our Celtick forefathers! Thucydides, l. i. c. 3. T. i. c. 9. Strabo, l. v, 226. See alſo Plin. H. N. vii. 2.

P. 214. *This was alſo a part of the antient juriſprudence of many heathen nations*, &c.

Nicolaus Damaſcenus tells us, that the Umbrians, a Celtick people, decided all controverſies among themſelves by combats: "*Umbrici*, "*quum controverſias inter ſe habent, pugnant armati, ac ſi bello congredi-*"*endum eſſet, et videntur juſtiorem habuiſſe cauſam qui adverſarium interi-*"*merent.*" Valerius Paterculus ſays, that the Germans thanked Varus, for determining by law thoſe diſputes which uſed to be determined Apud Stobæum, l. lviii.

among

L. ii. c. 218. among them by arms. "*Gratias agere Varo quod ſolita armis diſcerni* "*jure terminarentur.*" Ovid ſays of the Getes,

Nec metuunt leges, ſed cedit viribus æquum,
Victaque pugnaci jura ſub enſe jacent.

And in another place,

Adde quod injuſtum rigido jus dicitur enſe.

To what is ſaid in this hiſtory of trials by duell I will add here, that I find, in the Exchequer accounts, ſums allowed for the maintenance, armour, and apparel, of certain perſons there called *probatores regii*, employed to convict offenders by duell. See Madox, Hiſt. of the Exchequer, c. x. p. 255, 256.

P. 224. *The town of Preſton was amerced five marks for having put a man to the water ordeal without warrant*, &c.

I alſo find in the Hiſtory of the Exchequer a fine of twenty marks which Goſpatrick of Newcaſtle owed to King Henry the Second, for a permiſſion to clear himſelf by oath, *inſtead of the hot iron*, concerning ſome crime not named in the record; and another of ſixty marks, which Robert the ſon of Brien paid, *to be freed from that ordeal*, on ſome accuſation not expreſt. Theſe indulgences ſhould either have been granted to all, or ſold to none.

P. 237. *I preſume they were ſuch as aroſe from accuſations, not made by appeal, but by indictment on the ground of public fame, which are mentioned by Bracton as uſual in his time.*

It muſt be obſerved, that Bracton takes care to diſtinguiſh the public fame which was a ground for indictments, from mere common report. He ſays it ought to be ſuch as takes its riſe from good and grave men, who are worthy of credit, not from the malicious or ſlanderous; and adds, that popular clamour is often cauſed by what has no foundation in truth, for which reaſon the vain diſcourſes of the people are not to be regarded. "*Et ſciendum quod fama, quæ ſuſpicionem inducit, oriri* "*debet apud bonos et graves, non quidem a malevolis et maledicis, ſed pro-* "*vidis et fide dignis perſonis.*

V. Bracton, l. iii. c. 22.

"*Tumultus enim fit et clamor populi, quandoque de pluribus quæ in veri-* "*tate non fundantur, et ideo vanæ voces populi non ſunt audiendæ.*"

The END *of the* NOTES *to the* FOURTH BOOK *of the* LIFE *of* KING HENRY *the* SECOND.

APPENDIX

TO THE

FOURTH BOOK

OF THE

Life of King Henry the Second.

N° I.

This refers to vol. iii. p. 44.

Rymeri Fœdera, Tom. I. *p.* 15.

A. D. 1154. An. 2 H. II.

ADRIANUS Epiſcopus, ſervus ſervorum Dei, cariſſimo in Chriſto filio illuſtri Anglorum Regi, ſalutem, et Apoſtolicam Benedictionem. Laudabiliter ſatis et fructuoſe de glorioſo nomine propagando in terris æternæ felicitatis præmio cumulando in cœlis, tua magnificentia cogitat; dum ad dilatandos Eccleſiæ terminos, ad declarandum indoctis et rudibus populis Chriſtianæ fidei veritatem, et vitiorum plantaria de agro Dominico extirpanda, ſicut Catholicus Princeps intendis, et ad id convenientius exequendum conſilium Apoſtolicæ ſedis exigis et favorem. In quo facto, quanto altiori conſilio, et majori directione procedes, tanto in eo feliciorem progreſſum te, præſtante Domino, confidimus habiturum, eo quod ad bonum exitum ſemper et finem ſoleant attingere quæ de ardore fidei et religionis amore principium acceperunt.

Sane Hiberniam et omnes Inſulas quibus ſol juſtitiæ Chriſtus illuxit, et quæ documenta Fidei Chriſtianæ receperunt, ad jus beatri Petri et ſacroſanctæ Romanæ Eccleſiæ (quod tua etiam nobilitas recognoſcit), non eſt dubium pertinere; unde tanto in eis libentius plantationem fidei fidelem et germen Deo gratum inſerimus, quanto id a nobis interno examine diſtrictius proſpicimus exigendum.

Significaſti ſiquidem nobis, fili in Chriſto cariſſime, te Hiberniæ Inſulam, ad ſubdendum illum populum legibus, et vitiorum plantaria inde extirpanda velle intrare, et de ſingulis domibus annuam unius denarii beato Petro velle ſolvere penſionem, et jura Eccleſiarum illius terræ illibata et integra conſervare. Nos itaque, pium et laudabile deſiderium tuum favore congruo proſequentes, et petitioni tuæ benignum impendentes aſſenſum, gratum et acceptum habemus, ut, pro dilatandis Eccleſiæ terminis, pro vitiorum reſtringendo decurſu, pro corrigendis moribus et virtutibus inſerendis, pro Chriſtianæ Religionis augmento, Inſulam illam ingrediaris; et quæ ad honorem Dei et ſalutem illius ſpectaverint exequaris; et illius terræ populus honorifice te recipiat, et ſicut dominum veneretur, jure nimirum Eccleſiarum illibato et integro permanente, et ſalva beato Petro, et ſacroſanctæ Romanæ Eccleſiæ de ſingulis domibus annua unius denarii penſione.

Si ergo, quod concupiſti animo, effectu duxeris proſequente complendum, ſtude gentem illam bonis moribus informare, et agas, tam per te, quam per illos quos ad hoc fide, verbo, et vita idoneos eſſe perſpexeris, ut decoretur ibi Eccleſia, plantetur et creſcat fidei Chriſtianæ Religio, et quæ ad honorem Dei et ſalutem pertinent animarum taliter ordinentur, ut et a Deo ſempiternæ mercedis cumulum conſequi merearis, et in terris glorioſum nomen valeas in ſeculis obtinere.

N. B. Some manifeſt errors in this charter, as given by Rymer, who does not ſay that he publiſhed it from any original Record, are corrected from the copy given by Giraldus Cambrenſis in his Hibernia Expugnata, l. ii. c. 6. in Camden's Anglica, Normannica, &c. and alſo in his Book de Rebus a ſe geſtis, par. ii. c. 11. in Angliâ Sacrâ, par. ii.

N° II.

This refers to vol. iii. p. 92.

Ware, Hibern. Antiq. p. 235.

HENRICUS, Dei gratia, Rex Angliæ, et Dux Normanniæ et Aquitaniæ, et Comes Andegaviæ, Archiepiſcopis, Epiſcopis, Abbatibus, Comitibus, Baronibus, Juſtitiariis, et omnibus Miniſtris et fidelibus ſuis, Francis, Anglis et Hibernienſibus totius terræ ſuæ, Salutem. Sciatis me dediſſe et conceſſiſſe, et præſenti charta mea confirmaſſe Hugoni de Lacy, pro ſervitio ſuo, terram de Midia, cum omnibus pertinentiis ſuis, per ſervitium quinquaginta Militum, ſibi et hæredibus ſuis, tenendam et habendam de me et hæredibus meis, ſicut Murchardus Hu-Melachlin eam tenuit, vel aliquis alius ante illum, vel poſtea. Et de incremento dono illi omnia feoda, quæ præbuit vel præbebit circa Duveliniam, dum Balivus meus eſt, ad faciendum mihi ſervitium, apud Civitatem meam Duveliniæ. Quare volo et firmiter præcipio, ut ipſe Hugo et hæredes ſui poſt eum, prædictam terram habeant, et teneant omnes libertates, et liberas conſuetudines quas ibi habeo, vel habere poſſum, per prænominatum ſervitium, a me et hæredibus meis, bene et in pace, libere, et quiete, et honorifice, in boſco et plano, in pratis et paſcuis, in aquis et molendinis, in vivariis et ſtagnis, et piſcationibus et venationibus, in viis et ſemitis, et portubus maris, et in omnibus aliis locis et aliis rebus ad eam pertinentibus, cum omnibus libertatibus, quas ibi habeo, vel illi dare poſſum, et hac mea charta confirmare. Teſte Comite Richardo filio Gilberti, Willielmo de Braoſa, etc. Apud Weisford.

This refers to vol. iii. p. 96.

N° III.

Epiſtola 89. *L.* v. *E Codice Vaticano, Edit. Bruſſels, corrected by the Manuſcript in the Cotton Library.*

Regi Angliæ Albertus et Theodebertus Cardinales.

NE in dubium veniet quæ geruntur, et uſus habet, et communis conſideratio utilitatis exponit, ut ſcripturæ ſerie debeant annotari. Inde ſiquidem eſt, quod nos mandatum illud in ſcriptum duximus redigendum, quod vobis pro eo fecimus, quia malefactores illos, qui S. memoriæ T. quondam Cant. Arch. occiderunt, occaſione motus et turbationis, quam viderunt in vobis, ad illud facinus proceſſiſſe timetis. Super quo tamen facto purgationem in noſtra præſentia de voluntate propria præſtitiſtis, quod videlicet nec præcepiſtis, nec voluiſtis ut occideretur, et quando pervenit ad vos plurimum doluiſtis. Ab inſtanti ſiquidem Feſto Penteceſtes uſque ad annum tantam pecuniam dabitis, unde ad arbitrium Fratrum Templi ducenti milites valeant ad Defenſionem Hieroſ. terræ ſpatio unius anni teneri. Vos autem a ſequenti Domini Nativ. uſque ad triennium terminum, Crucem accipietis, proxima tunc æſtate illuc in propria perſona profecturi, niſi remanſerit per D. Papam, vel Cathol. ſucceſſorem ejus. Sane ſi contra Saracenos in Hiſpaniam pro urgenti neceſſitate profecti fueritis, quantum temporis fuerit ex quo arripueritis iter, tantumdem ſupradictum ſpatium Hieroſ. Profectionis poteritis prolongare. Appellationes nec impedietis, nec permittetis impediri, quin libere fiant in eccleſiaſticis cauſis ad R. Eccl. bona fide, et abſque fraude, et malo ingenio, ut per R. Pont. cauſæ tractentur, et ſuum conſequantur effectum. Sic tamen, ut ſi vobis ſuſpecti fuerint aliqui ſecuritatem facient, quod malum veſtrum vel Regni veſtri non quærent. Conſuetudines quæ inductæ ſunt contra eccleſias terræ veſtræ tempore veſtro penitus demittetis, nec ab epiſcopis amplius exigetis. Poſſeſſiones Cantuarienſis Eccleſiæ, ſi quæ ablatæ ſunt, plane reſtituetis, ſicut habuit uno anno antequam Archiep. de Ang. egrederetur. Cleri-

cis

cis præterea et Laicis utriuſque ſexus pacem veſtram, et gratiam, et poſſeſſiones ſuas reſtituetis, qui occaſione prænominat. Arch. deſtituti fuerint. Hæc autem vobis, authoritate D. Papæ, in remiſſionem omnium peccatorum veſtrorum injungimus et præcipimus obſervare, bona fide, abſque fraude, et malo ingenio.

Juravit hoc Rex, juravit et de Conſuetudinibus novis demittendis Filius ejus. Et juraverunt ambo quod a vobis et ſucceſſoribus veſtris non recederent, quamdiu eos ſicut Chriſtianos Reges vel Catholicos habueritis.

In that which is called Epiſt. 88. but is really only an Extract from Alanus, in Hiſt. Quadripartita, there is this Clauſe:

Secundo quod prava Statuta de Clarenduna, et omnes malas Conſuetudines, quæ in diebus ſuis in Eccleſias Dei inductæ ſunt, penitus dimitteret. *Si quæ autem malæ fuerunt ante tempora ſua, illas juxta mandatum D. Papæ, et conſilio religioſorum virorum temperabit.* But this is of no authority againſt the Act or Inſtrument of the Reconciliation, drawn up by the Cardinals who made it, and the teſtimony of the King himſelf in his Letter to the Clergy of England.

N°. IV.

This and the next refer to vol. iii. p. 109.

N° IV.

Petrus Bleſenſis, Epiſt. cliv. cliii. *p.* 281, *&c.*

Reginæ Anglorum Rothomagenſis Archiepiſcopus, et Suffraganei ſui, ſalutem, et quæ ad pacem ſunt, quærere.

IN publicam notitiam venit, nec alicui Chriſtiano licitum eſt ignorare, quam firma et indiſſolubilis ſit copula conjugalis. Matrimonia ſemel inita ſeparari non poſſe, ſanxit veritas, quæ mentiri non poteſt. Quos Deus, inquit, conjunxit, homo non ſeparet. Sicut autem divini mandati ſe tranſgreſſorem conſtituit, qui ſeparat conjugatos, ita culpabilis conjugata eſt, quæ ſe a viro ſuo ſeparat, fidemque ſocialis vinculi non obſervat. Cum una caro conjuges efficiantur, neceſſe eſt, ut unionem corporum comitetur ſpirituum unitas et paritas in conſenſu naturæ conditionem. Apoſtoli mandatum et Evangelii legem mulier illa evacuat, quæ viro non eſt ſubdita. Caput enim mulieris vir eſt, de viro ſumta eſt, viro eſt unita, viri ſubdita poteſtati. Omnes itaque communi et lamentabili querimonia deploramus, quod, cum ſis mulier prudentiſſima, divertis a viro, recedit latus a latere, membrum capiti non deſervit, imo, quod enormius eſt, viſcera Domini Regis et tua pateris inſurgere contra Patrem: ut merito cum propheta dicat, Filios enutrivi et exaltavi: ipſi autem ſpreverunt me. Utinam, ſicut alius propheta commemorat, prævenisſet hora noviſſima dies * veſtros, et operuiſſet terra faciem † veſtram, nec videremus hæc mala. Scimus, quia niſi revertaris ad virum tuum, eris generalis ruinæ occaſio: et quod ſingulariter nunc delinquis in commune diſpendium converteretur. Revertere itaque, Regina illuſtris, ad virum tuum, et Dominum noſtrum, ut in tua reconciliatione reformetur laborantibus quies, et in tuo reditu lætitia redeat univerſis. Si te ad hoc non promovent preces noſtræ, te ſaltem afflictio populorum, imminens preſſura Eccleſiæ, et deſolatio regni ſollicitet: aut enim mentitur veritas, aut omne regnum in ſe diviſum deſolabitur. Sane hæc deſolatio in Dominum Regem converti non poteſt, ſed in filios ejus, et ſucceſſores ipſorum. Contra

* noſtros.
† noſtram.

manum

manum fœmineam et consilium puerile provocatis offensam Domini Regis, cui etiam fortissimi reges colla subjiciunt. Ea propter, antequam res in deteriorem exitum vergat, redeas cum filiis ad maritum, cui parere et cohabitare teneris, te converte, nec tibi aut tuis filiis sit suspectus. Certissimi enim sumus, quod omnimodam exhibebit vobis dilectionem, et securitatis pleniſſimam firmitatem. Mone quæso filios tuos, ut patri suo subditi et devoti existant, pro quibus tot passus est angustias, tot discrimina, tot labores. Unde, ne inconsulta facilitas dilapidet ac disperdat quod tantis est sudoribus acquisitum, hæc tibi, piissima Regina, et zelo Dei dicimus, et sinceræ caritatis affectu: parochiana enim nostra es, sicut et vir tuus. Non possumus deesse justitiæ. Vel redibis ad virum tuum, vel jure canonico constringemur et tenebimur in te censuram Ecclesiasticam exercere. Quod quidem inviti dicimus, et quod, nisi resipueris, cum dolore et lacrymis faciemus. Valete.

Epist. cliii.

Henrico Dei Gratia Illustri Regi Anglorum, etc. R. Rothomag. Archiepiscopus, et Arnolphus Lexoniensis Archiepiscopus, salutem in ea, per quem reges regnant.

TANTO tempestivius ac diligentius injunctam nobis Legationem duximus prosequendam, quanto periculosior in tanto discrimine dilatio videbatur. Accincti itaque ad laborem susceptæ itineris Regem Francorum adivimus, blandissimaque salutatione præmissa ipsius prævenientes offensam, nulla cautela potuimus vestræ salutationis extorquere responsum. Singulos nostræ Legationis articulos explicavimus seriatim, commoda pacis, et incommoda dissensionis frequentius inculcantes. Ipse vero verbum nostrum in omnibus, sola salutatione excepta, patienter admisit. Expedito itaque diligenter nostræ Legationis excursu, spatio modici temporis interjecto contumelioſe cœpit nobis fraudes et versutias exprobrare, quibus se conquerebatur sæpissime circumventum. Dicebat, quod fidem inter vos mutuo compromissam frequenter occasione leviſſima violastis: vosque in omnibus adeo exhibuistis instabilem, quod non adhibebit de cætero vobis fidem. Non sit vobis, Rex illustrissime, oneroſum,

ſi quod audivimus loquimur. Hæc eſt enim nuntiorum conditio, ut de injuncto ſibi mandato nil ſubticeant, nil reſcindant, vel diminuant de reſponſo. Addebat etiam, ſe firmiſſimum habuiſſe propoſitum expugnandi vos, antequam Carnotum filius veſter adventaſſet: iſtaſque occaſiones diſſenſionis et odii proponebat, quod filiam ſuam ad virum ſuum redire non finitis, quod ei dotem ejus non redditis, quod ſubditos ſuæ ditioni populos a montibus Alverniæ uſque ad Rhodanum in ipſius odium concitaſtis, quod in coronæ ſuæ diſpendium Comitem S. Egidii in ligium hominem recepiſtis: tandem etiam juramento firmavit, ſe nunquam de cætero vobiſcum fœdus, aut concordiam habiturum, niſi de veſtræ uxoris et filiorum veſtrorum aſſenſu. Nunc igitur in cuſtodiendis munitionibus veſtris, et potiſſime in corporis veſtri tutela conſilio eſt utendum. Communi enim voto in exitium veſtrum tota Francia conſpiravit. Nec ſatis eſt ei exterminare terræ faciem igne et gladio; ſed in veſtram perſonam (quod abſit) ſcelus execrabile machinatur. Conſulimus ſane, ſi qua abſtuliſti, ſi læſiſti aliquem, ablata reſtituere, et odia reformare in gratiam. Hoc enim inimicos veſtros potiſſime invitat ad pugnam, quod inteſtinos hoſtes ſentiunt vos habere: et qui vobiſcum dulces capiunt cibos data opportunitate magnificabunt ſuper vos ſupplantationem. Maledictus qui confidit in homine, et ponit carnem fortitudinem brachii ſui. Quid eſt amabilius filiis? quid uxore familiarius? receſſit tamen uxor a latere veſtro, et filii inſurgunt in patrem. ideo non fruſtatorie loquebatur hic ille hominum prudentiſſimus, qui dicebat, Amico ne credas: ab ea quæ dormit in ſinu tuo, cuſtodi clauſtra oris tui. Filius enim contumeliam facit patri: et inimici hominis domeſtici ejus. Sane ſuffragia illius imploranda cenſemus, in cujus manu ſunt corda Regum. In ejus nomine parvitati David Goliæ ſubjacuit magnitudo. In ejus nomine Samaria adeo fame confecta obſidente Benadab, quod triginta argenteis caput aſini vendebatur, ſub ictu oculi liberata eſt, exuberantique victualium affluentia redundavit: in eo ſiquidem ſperans non infirmabitur. Si exurgat adverſus vos prælium, in hoc ſperate. Si exurgant adverſus vos caſtra, non timebit cor veſtrum: ipſe enim docebit manus veſtras ad prælium. Accipite vobis in auxilium preces Eccleſiæ: quam, ſi in aliquo offendiſtis, debita ſatisfactione impenſa ei de cætero omnem reverentiam exhibete. Sponſa enim CHRISTI eſt; et injurias ſponſæ CHRISTUS reputat ſuas. nec eſt, quod magis hoſtes veſtros incitat ad conflictum, quam

quod arbitrantur vos eccleſiæ DEI minus exitiſſe devotum. Bene valeat cariſſimus Dominus noſter, & de his qui ſe contra eum in ſuperbia & abuſione erigunt reportet in virtute Altiſſimi gloriam & triumphum.

N° V.

This and the next refer to vol. iii. p. 115.

Petrus Bleſenſis, Epiſt. CXXXVI. *p.* 245, *&c.*

Sanctiſſimo Domino ſuo Alexandro, Dei Gratia, Catholicæ Eccleſiæ ſummo Pontifici, H. Rex Angliæ, Dux Normanniæ & Aquitaniæ, Comes Andegaven. & Cenoman. ſalutem & devotæ ſubjectionis obſequium.

IN magnorum diſcriminum anguſtiis, ubi domeſtica conſilia remedium non inveniunt, eorum ſuffragia implorantur, quorum prudentiam in altioribus negotiis experientia diuturnior approbavit. Longè lateque divulgata eſt filiorum meorum malitia, quos ita in exitium patris ſpiritus iniquitatis armavit, ut gloriam reputent & triumphum patrem perſequi, & filiales affectus in omnibus diffiteri, præveniente meorum exigentia delictorum. Ubi pleniorem voluptatem contulerat mihi Dominus, ibi gravius me flagellat: &, quod ſine lacrymis non dico, contra ſanguinem meum & viſcera mea cogor odium mortale concipere, & extraneos mihi quærere ſucceſſores. Illud præterea ſub ſilentio præterire non poſſum, quod amici mei receſſerunt à me, & domeſtici mei quærunt animam meam. Sic enim familiarium meorum animos intoxicavit clandeſtina conjuratio, ut obſervantiæ proditoriæ conſpirationis univerſa poſthabeant. Malunt namque meis adhærere filiis contra me transfugæ & mendici, quàm regnare mecum, & in ampliſſimis dignitatibus præfulgere. Quoniam ergo vos extulit Deus in eminentiam officii Paſtoralis ad dandam ſcientiam ſalutis plebi ejus, licet abſens corpore, præſens tamen animo, me veſtris advolvo genibus, conſilium ſalutare depoſcens. *Veſtræ juriſdictionis eſt regnum Angliæ, & quantum ad fuditarii juris obligationem, vobis duntaxat obnoxius teneor, & aſtringor.* Experiatur Anglia, quid poſſit Romanus pontifex, & quia materialibus armis non utitur, *patrimonium B. Petri* ſpirituali gladio tueatur. Contumeliam filiorum poteram armis rebellibus propulſare, ſed patrem non poſſum exuere: nam &, Jeremia teſtante, nu-

daverunt lamiæ mammas ſuas, lactaverunt catulos ſuos. Et dicet errata eorum quaſi mentis efferatæ me fecerunt, retineo paternos affectus, & quandam violentiam diligendi eos mihi conditio naturalis importat. Utinam ſaperent, & intelligerent, ac noviſſima providerent. Lactant filios meos domeſtici hoſtes, & occaſione malignandi habita non deſiſtunt, quouſque redigatur virtus eorum in pulverem, & converſo capite in caudam fervi eorum dominentur eis, juxta verbum illud Salomonis, Servus aſtutus filio dominabitur imprudenti. Excitet ergo prudentiam veſtram ſpiritus conſilii, & convertatis corda filiorum ad patrem. Cor enim patris pro beneplacito veſtro convertetur ad filios, & in fide illius, per quem reges regnant, veſtræ magnitudini promitto, me diſpoſitioni veſtræ in omnibus pariturum. Vos Eccleſiæ ſuæ, pater ſancte, diu CHRISTUS ſervet incolumem.

Radv. Friſingenſ. App. ad Ottonem de Rebus geſtis Fred. I. *Imp. l.* i. *p.* 263.

IBIDEM tunc affuere etiam Henrici regis Angliæ miſſi, varia & precioſa donaria multo lepore verborum adornata præſentantes. Inter quæ papilionem unum quantitate maximum, qualitate boniſſimum perſpeximus. Cujus ſi quantitatem requiris, non niſi machinis, & inſtrumentorum genere, & adminiculo levari poterat: ſi qualitatem, nec materia, nec opere ipſum putem aliquando ab aliquo hujuſce apparatu ſuperatum iri. Literas quoque mellito ſermone plenas pariter direxerat. Quarum hic tenor fuit: *Præcordiali amico ſuo Friderico, Dei gratia, Romanorum Imperatori invictiſſimo, Henricus rex Angliæ, dux Normanniæ & Aquitaniæ, & comes Andegavenſis, Salutem & veræ dilectionis concordiam.* Excellentiæ veſtræ quantas poſſumus referimus grates, dominantium optime, quòd nos nunciis veſtris viſitare, ſalutare literis, muneribus prævenire, & quod his charius amplectimur, pacis & amoris invicem dignati eſtis fœdera inchoare. Exultavimus & quodammodo animum nobis creſcere, & in majus ſenſimus evehi, dum veſtra promiſſio, in qua nobis ſpem dediſtis in diſponendis regni noſtri negotiis, alacriores nos reddidit, & promptiores. Exultavimus, inquam, & tota mente magnificentiæ veſtræ aſſurreximus, id vobis

vobis in ſincero cordis affectu reſpondentes, quòd quicquid ad honorem veſtrum ſpectare noverimus, pro poſſe noſtro effectui mancipare parati ſumus. *Regnum noſtrum, & quicquid ubique noſtræ ſubjicitur ditioni, vobis exponimus, & veſtræ committimus poteſtati, ut ad veſtrum nutum omnia diſponantur, & in omnibus veſtri ſtat voluntas imperii.* Sit igitur inter nos & populos noſtros dilectionis & pacis unitas indiviſa, commercia tuta: *ita tamen ut vobis, qui dignitate præminetis, imperandi cedat auctoritas, nobis non deerit voluntas obſequendi.* Et ſicut veſtræ ſerenitatis memoriam veſtrorum excitat in nobis munerum largitio, ſic vos noſtri quoque reminiſci præoptamus, mittentes quæ pulchriora penes nos erant, & vobis magis placitura. Attendite itaque dantis affectum, non data, & eo animo quo datur excipite. De * manu beati Jacobi, ſuper qua nobis ſcripſiſtis, in ore magiſtri Heriberti & Guilhelmi clerici noſtri verbum poſuimus, teſte Thoma Cancellario apud Norhant.

N° VI.

This refers to vol. iii. p. 163.

Rymeri Fœdera, Tom. I. *p.* 37.

Hæc eſt concordia quæ facta eſt inter Regem & Filios ſuos.

A. D. 1174.

A. 20 H. II. Ex Orig. in Biblioth. Cotton.

1. NOTUM ſit omnibus tam præſentibus quam futuris, quod pax inter Dominum H. Regem Angliæ & filios ejus, Henricum videlicet Regem, & Ricardum, & Gaufridum, in hunc modum, Deo volente, reformata eſt.

2. Henricus Rex, & fratres ſui prædicti, ad patrem ſuum & ſervitium ejus, ſicut ad dominum ſuum, redierunt liberi & abſoluti ab omni juramento & inpriſa, quam inter ſe, vel cum aliis, fecerant contra eum & homines ſuos.

3. Et omnes barones & homines, qui a fidelitate patris, cauſa eorum receſſerant, clamaverunt quietos ab omni juramento, quod eis fecerant, & ita liberi & quieti ab omni juramento & abſoluti ab omni conventione, quam eis fecerant, in dominium et ligeantiam Domini Regis redierint.

4. Et Dominus Rex debet rehabere, ipſe, & barones, & homines ſui, omnes terras ſuas, & caſtella ſua, quæ habuerunt xv dies antequam filii

* This ſeems to have been a relick which the emperor had deſired, but which Henry would not ſend him, either becauſe he ſuſpected it not to be a true one, or becauſe the church or convent to which it belonged refuſed to part with it, and he did not think it proper to force it from them.

ſui recederent ab eo. Similiter barones & homines ſui qui receſſerunt ab eo, & ſecuti ſunt filios ſuos, debent rehabere terras ſuas, quas habuerunt xv diebus antequam ipſi ab eo recederent; & Dominus Rex remiſit omnem malevolentiam baronibus & hominibus ſuis, qui receſſerant ab eo, ita quod, propter hoc, nullum malum eis faciet quamdiu ei fideliter ſervient, ſicut ligio Domino ſuo.

5. Et Rex filius ejus ſimiliter pardonavit omnibus, tam clericis, quam laicis, qui cum patre fuerunt, omnem malevolentiam ſuam; & adſecuravit, in manu Domini Regis patris ſui, quod illis, qui ſervierint ei, nec malum, nec dampnum aliquod, hac de cauſa, faciet vel perquiret in tota vita ſua.

6. Et Dominus Rex, per hanc conventionem, donat Regi filio ſuo duo caſtella idonea in Normannia, ad voluntatem ipſius patris; & ſingulis annis xv millia librarum Andegavenſium: Et Ricardo filio ſuo in Pictavia duo receptacula idonea, unde Domino Regi non poſſit dampnum provenire; & medietatem reddituum Pictaviæ in denariis: Gaufrido vero filio ſuo dat in Britannia, in denariis, medietatem reddituum maritagii filiæ Comitis Conani, quam ducere debet in uxorem, & poſtquam, conceſſione Eccleſiæ Romanæ, eam in uxorem duxerit, habebit omnes redditus illius maritagii, ſicut continetur in carta Comitis Conani.

7. Priſones vero, qui cum Domino Rege finem fecerunt ante pacem factam cum Domino Rege, viz. Rex Scotiæ, & Comes Leiceſtriæ & Comes Ceſtriæ, & Radulphus de Fulgeriis, & obſides eorum, & obſides aliorum priſonum, quos prius habuerat, ſint extra conventionem iſtam. Alii autem priſones ex utraque parte deliberari debent; ita ſcilicet quod Dominus Rex obſides accipiet de priſonibus ſuis, de quibus habere voluerit, & qui dare poterunt: & de aliis habebit ſecuritatem per fidem & juramentum ſuum, & amicorum ſuorum.

8. Caſtella vero, quæ firmata ſunt, vel inforciata, poſtquam guerra incepit in terra Domini Regis, pro voluntate ſua debent redigi ad illum ſtatum, in quo fuerunt xv diebus ante gwerram.

9. Præterea ſciendum eſt quod Rex H. filius Regis conceſſit Domino Regi patri ſuo, ſe firmiter obſervaturum omnes donationes eleemoſinarum quas dederat vel daturus erat de terris ſuis, & donationes terrarum quas dederat hominibus ſuis, vel daturus erat pro ſervitio ſuo.

10. Conceſſit

10. Conceſſit etiam ſe firmiter & inconcuſſe obſervaturum donationem quam Dominus Rex, pater ſuus, fecit Johanni fratri ſuo, viz. mille librates reddituum in Anglia de dominico ſuo, & de eſcaetis ſuis, ad voluntatem ſuam: Et caſtellum de Notingham, cum comitatu & pertinentiis ſuis: Et caſtellum de Merliberga cum pertinentiis ſuis: Et in Normannia mille libras Andegavenſium, & duo caſtella ad voluntatem patris: Et in Andegavia, et in terra quæ fuit Comitis Andegaviæ, mille libras reddituum Andegavenſium; & caſtellum unum in Andeg. & unum in Cenomania, & unum in Turonia.

11. Conceſſum eſt autem a Domino Rege, pro amore filii ſui, quod omnes illi qui receſſerant ab eo poſt filium ſuum, & in receſſu ſuo forifecerant in terra Domini Regis, ad pacem ejus revertantur; ita quod de catallis, quæ aſportaverunt receſſu ſuo, non reſpondeant: de morte vero, vel proditione, vel perditione alicujus membri, reſpondeant ſecundum judicium & conſuetudinem terræ: qui autem ante gwerram, quacunque de cauſa, a ufugerant, & ad ſervitium filii ſui venerunt, pro amore filii ſui ad pacem revertantur, ſi vadium & plegium dederint ſtandi judicio de his, quæ ante gwerram fores fuerunt.

12. Illi autem, qui in placito erant quando receſſerunt ad filium ſuum, revertantur; ita quod in eo ſtatu placiti ſui ſint, in quo erant quando receſſerunt.

13. Hanc conventionem firmiter tenendam ex parte ſua aſſecuravit H. Rex filius Regis in manu Domini Regis patris ſui. Præterea aſſecuraverunt H. filius Regis, & fratres ſui, quod a Domino Rege patre ſuo nunquam amplius exigerent, ultra donationem præſcriptam & determinatam, contra voluntatem & bene placitum Domini Regis patris ſui; & quod neque ſe, neque ſervitia ſua, patri ſuo ſubtraherent.

14. Ricardus vero & Gaufridus, filii Domini Regis, devenerunt homines ejus de his, quæ eis conceſſit & dedit.

Cum autem filius ejus Henricus homagium ei facere voluiſſet, noluit Dominus Rex recipere, quia Rex erat; ſet ſecuritatem accepit ab eo.

Teſtibus,

R. Rothomag. Archiepiſcopo.

Henrico Baioc. Epiſcopo.

Rogero Sag. Epiſcopo.

R. Nanet

R. Nannet Epiſcopo.
Steph. Rhedon. Epiſcopo.
G. Electo Lincoln.
Jo. Decano Sarum.
Ric. de Humez Conſtabulario.
Ric. de Bellemonte Vic.
Regin. de Curten.
Mor. de Creona.
Willielmo Malo-vicino.
W. de Hum.
Gaufrido Pertic.
Willielmo de Curci.
Fulch. Saenell.
Jo. de Solineio.
Saher de Quinci.
Rico. de Canvill.
W. filio Andell Seneſcallo.
Alvr. de Sancto Martino Dapifero.
Goſberto de Siffencio.
Rob. filio Ernifii.
Eudde filio Ern.
Waltero de Ypra.
Willielmo Mareſcallo.
Roberto de Ble.
Eimerio filio Eudon.
Apud Faleriam.

Sub ſigillo pendente, cui imprimitur imago Regis in ſolio ſedentis, & ſiniſtra manu gerentis ſceptrum.

N°

N° VII.

This refers to vol. iii. p. 168.

Rymeri Fœdera, Tom. I. *p.* 39.

Hæc eſt Conventio et Finis, quam Will. Rex Scotorum fecit cum Domino ſuo Henrico Rege, filio Matildis.

WILLIELMUS Rex Scotorum devenit homo ligius Domini Regis contra omnem hominem de Scotia, et de omnibus aliis terris ſuis, et fidelitatem ei fecit, ut ligio Domino ſuo, ſicut alii homines ſui ipſi facere ſolent, et ſimiliter fecit homagium Henrico Regi filio ſuo, ſalva fide Domini Regis patris ſui. A. D. 1174. A. 20 H. II. Ex magno Rotulo penes Camer.

Omnes vero Epiſcopi, et Abbates, et Clerus terræ Regis Scotiæ, et ſucceſſores ſui facient Domino Regi, ſicut ligio Domino, fidelitatem de quibus habere voluerit, ſicut alii Epiſcopi ſui ipſi facere ſolent, et Henrico Rege filio ſuo, et hæredibus ſuis.

Conceſſit autem Rex Scotiæ, et David frater ſuus, et Barones et alii homines ſui Domino Regi, quod Eccleſia Scoticana talem ſubjectionem amodo faciet Eccleſiæ Anglicanæ, qualem illi facere debet et ſolebat tempore Regum Angliæ prædeceſſorum ſuorum. Similiter Richardus Epiſcopus Sancti Andreæ, et Ricardus Epiſcopus de Dunkeldyn, et Galfridus Abbas de Dumfermelyn, et Herbertus Prior de Coldingham conceſſerunt quod etiam Eccleſia Anglicana illud jus habeat in Eccleſia Scotiæ, quod de jure habere debet, et quod ipſi non erunt contra jus Eccleſiæ Anglicanæ.

Et de hac conceſſione, ſicut ligiam fidelitatem Domino Regi et Henrico filio ſuo fecerunt, et eos inde aſſecuraverunt; ita hoc idem facient alii Epiſcopi et Clerus Scotiæ per conventionem inter Dominum Regem, et Regem Scotiæ et David fratrem ſuum et Barones ſuos factam.

Comites etiam et Barones, et alii homines de terra Regis Scotiæ, de quibus Dominus Rex habere voluerit, facient ei homagium contra omnem hominem, et fidelitatem, ut ligio Domino, ſicut alii homines ſui facere ſolent, et Henrico Regi filio ſuo, et hæredibus ſuis, ſalva fide Domini

Regis patris ſui: ſimiliter hæredes Regis Scotiæ et Baronum et hominum ſuorum homagium et ligeantiam facient hæredibus Domini Regis contra omnem hominem.

Præterea Rex Scotiæ et homines ſui nullum amodo fugitivum de terra Domini Regis pro felonia receptabunt in Scotia vel in alia terra ſua; (niſi voluerit venire ad rectum in curia Domini Regis, et ſtare judicio curiæ) ſet Rex Scotiæ et homines ſui quam citius poterunt eum capient, et Domino Regi reddent, vel Juſticiariis, aut Ballivis ſuis in Anglia.

Si autem de terra Regis Scotiæ aliquis fugitivus fuerit pro felonia in Anglia (niſi voluerit venire ad rectum in curia Regis Scotiæ, vel in curia Domini Regis, et ſtare judicio curiæ) non receptabitur in terra Domini Regis; ſet liberabitur hominibus Regis Scotiæ per Ballivos Domini Regis ubi inventus fuerit.

Præterea homines Domini Regis habebunt terras ſuas, quas habebant, et habere debent, de Domino Rege, et de Rege Scotiæ, et de hominibus ſuis, et homines Regis Scotiæ habebunt terras ſuas quas habebant, et habere debent, de Domino Rege, et de hominibus ſuis.

Pro iſta vero conventione et fine firmiter obſervando Domino Regi, et Henrico filio ſuo, et hæredibus ſuis, a Rege Scotiæ, et hæredibus ſuis, liberavit Rex Scotiæ Domino Regi caſtellum de Rockeſburg, et caſtellum de Berwick, et caſtellum de Gedeworthe, et caſtellum Puellarum, et Caſtellum de Stryvelyn, in miſericordia Domini Regis: Et ad cuſtodienda caſtella illa aſſignabit Rex Scotiæ, de redditu ſuo, menſurabiliter ad voluntatem Domini Regis.

Præterea pro prædicta conventione et fine exequendo liberavit Rex Scotiæ Domino Regi David fratrem ſuum in obſidem, &

Comitem Duncanum et
Comitem Waldenum et
Comitem Gilbertum et
Comitem Aneguz et
Ricardum de Moreville Conſtabularium
Niz filium Willielmi et
Ricardum Comyn et
Walterum Corbet et
Walterum Olyfard et

Johannem

Johannem de Valz et
Ricardum de Morville, Conſtabularium et
Willielmum de Lyndeſeye et
Philipum de Colville et
Philipum de Valoignes et
Robertum Frembert et
Robertum de Burneville et
Hugonem Gyffard et
Hugonem Rydal et
Walterum de Berkele et
Willielmum de la Haye et
Willielmum de Mortemer

Quando vero caſtella reddita fuerint, Willielmus Rex Scotiæ et David frater ſuus liberabuntur. Comites quidem et Barones prænominati, unuſquiſque poſtquam liberavit obſidem ſuum, ſcilicet filium legitimum quem habuit, et alii nepotes ſuos, vel propinquiores ſibi hæredes, et Caſtellis, ut dictum eſt, redditis, liberabuntur.

Præterea Rex Scotiæ et Barones ſui prænominati aſſecuraverunt, quod ipſi, bona fide, et ſine malo ingenio, et ſine occaſione, facient quod Epiſcopi, et Barones, et homines terræ ſuæ, qui non affuerunt quando Rex Scotiæ cum Domino Rege finivit, eandem ligeantiam et fidelitatem Domino Regi et Henrico filio ſuo facient, quam ipſi fecerunt, et quod Barones et homines, qui affuerunt, obſides liberabunt Domino Rege de quibus habere voluerit.

Præterea Epiſcopi, Comites et Barones conventionaverunt Domino Regi, et Henrico filio ſuo, quod, ſi Rex Scotiæ aliquo caſu a fidelitate Domini Regis et filii ſui, et a conventione prædicta recederet, ipſi cum Domino Rege tenebunt, ſicut cum ligio Domino ſuo, contra Regem Scotiæ, donec ipſe ad fidelitatem Domini Regis redeat.

Prædictam itaque conventionem firmiter obſervandum bona fide, et ſine malo ingenio, Domino Regi, et Henrico filio ſuo, et hæredibus ſuis, a Willielmo Rege Scotiæ, et David fratre ſuo, et a Baronibus ſuis prædictis, et ab hæredibus eorum, aſſecuravit ipſe Rex Scotiæ, David frater ſuus, et omnes Barones ſui prænominati, ſicut ligii homines Domini Regis,

contra omnem hominem, et Henrici filii ſui, ſalva fidelitate Domini Regis patris ſui.

His Teſtibus,
Ricardo Epiſcopo Abricen.
Johanne Sareſberien. Decano.
Roberto Abbate Malmſbur.
Randulpho Abbate de Mondeſburgh.
Herberto Archidiacono Northampton.
Waltero de Conſtanciis.
Rogero Capellano Regis.
Oſberto Clerico de Camera.
Ricardo filio Domini Regis, Comite Pictaviæ.
Galfrido filio Domino Regis, Comite Brytanniæ.
Comite Willielmo de Eſſex.
Hugon. Comite Ceſtriæ.
Ricardo Humez Conſtabulario.
Comite de Millenc.
Jordano Coſſon.
Humfrido de Bohun.
Willielmo de Curcy Seneſcallo.
Gilberto Malet Seneſcallo
Apud Faleſiam.

*** I have corrected two or three words in this treaty, which are manifeſtly errors of the preſs in the copy which Rymer has given us of it. Theſe corrections are agreeable to another copy of them in Benedictus Abbas, Hearne's Edition, t. i. ad ann. 1175.

N° VII.

This refers to vol. iii. p. 196.

Benedict. Abb. t. ii. *p.* 123, 124, 125. *Brompton's Chronicle, col.* 1106, 1107. *Hoveden, ad ann.* 1175.

A. D. 1175.

HÆC eſt finis & concordia facta apud Windeſore in octavis ſancti Michaelis anno ab incarnatione Domini M.C.lxxv. inter Henricum regem Angliæ & Rodoricum regem Connactenſem, per Catholicum archiepiſcopum Tuamenſem, Cantordem abbatem Sancti Brendani, & magiſtrum Laurentium cancellarium regis Connactenſis; ſcilicet, Quod rex Angliæ Henricus concedit prædicto Rodorico ligio homini ſuo quamdiu ei fideliter ſerviet, quod ſit rex ſub eo, paratus ad ſervitium ſuum, ſicut homo ſuus, & quod terram ſuam teneat ita bene & in pace ſicut tenuit antequam Dominus rex Angliæ Hyberniam intravit, reddendo ei tributum. Et totam aliam terram & habitatores terræ habeat ſub ſe, & juſticiet, ut tributum regi Angliæ integre per manum ejus perſolvant, & ſua jura ſibi conſervent. Et illa quæ modo tenent, teneant in pace quamdiu permanſerint in fidelitate regis Angliæ, & ei fideliter & integre perſolverint tributum & alia jura ſua quæ ei debent, per manum regis Conactæ, ſalvo in omnibus jure & honore Domini regis Angliæ & ſuo. Et ſi qui ex eis regi Angliæ & ei rebelles fuerint, & tributum & alia jura regis Angliæ per manum ſuam ſolvere noluerint, & a fidelitate regis Angliæ receſſerint, ipſe eos juſticiet & amoveat; & ſi eos per ſe juſticiare non poterit, conſtabularius regis Angliæ & familia ſua de terra illa juvabunt eum ad hoc faciendum, cum ab ipſo fuerint requiſiti, & ipſi viderint quod neceſſe fuerit. Et propter hunc finem reddet prædictus rex Conactæ Domino Regi Angliæ tributum, ſcilicet de ſingulis x animalibus unum corium placabile mercatoribus, tam de tota terra ſua quam de alia, excepto quod de terris illis quas dominus rex Angliæ retinuit in dominio ſuo, & in dominio baronum ſuorum, nichil ſe intromittet; ſcilicet Duvelina cum omnibus pertinentiis ſuis, & Mida cum omnibus pertinentiis ſuis, ſicut unquam Murchat va Melachlyn eas melius & plenius tenuit, aut aliqui qui de eo eam tenuerunt. Et excepta Weſefordia uſque ad Duncarvan; ita quod Duncarvan ſit cum omnibus pertinentiis ſuis infra terram illam. Et ſi Hybernienſes qui aufugerunt redire

voluerint ad terram baronum regis Angliæ, redeant in pace, reddendo tributum prædictum ſicut alii reddunt, vel faciendo antiqua ſervitia quæ facere ſolebant pro terris ſuis; & hoc ſit in arbitrio & voluntate dominorum ſuorum. Et ſi aliqui redire noluerint ad dominum eorum regem Conactæ, ipſe cogat eos redire ad terram ſuam, ut ibi maneant & pacem habeant. Et rex Conactæ accipiat obſides ab omnibus quos ei commiſit rex Angliæ ad voluntatem domini regis & ſuam, & ipſe dabit obſides ad voluntatem domini regis Angliæ illos vel alios, & ipſi ſervient Domino regi Angliæ de canibus ſuis & avibus ſuis ſingulis annis de præſentiis ſuis, & nullum omnino, de quacunque terra domini regis ſit, retinebunt contra voluntatem & mandatum domini regis. Teſtibus hiis,

Ricardo Epiſcopo Wyntoniæ.
Gaufr. Epiſcopo Elyenſi.
Laurentio Duvelienſi Archiepiſcopo.
Gaufr. & Nichol. & Rog. Capellanis regis.
Willielmo Comite Eſſexiæ.
Ricardo de Luci.
Gaufr. de Pertico.
Reginaldo de Courteneia.

*** This convention between King Henry the Second and Roderick king of Conaught is publiſhed in Rymer's Fœdera, p. 41. not from any record, but from a manuſcript copy of the hiſtory of Benedictus Abbas in the Cotton Library. It appears to be faulty in ſome parts, which are here corrected by Hearne's edition of that author from a manuſcript in the Harleian Collection, and by two other copies, in Roger de Hoveden, and Brompton's Chronicle.

This refers to vol. iii. p. 199.

N° VIII.

In Bib. Cotton. Claudius, *B.* II. *f.* 212. *b.*

HANC computationem prefentaverunt Pictavenſes cardinalibus; quando St. Thomas exulabat, ſed non ſunt auditi.

Sic computati ſunt gradus cognationis inter Regem Anglorum & Reginam. Guill. Rex Anglorum & Robertus comes Moritonii uterini fratres fuerunt. De Wilielmo natus eſt Henricus. De Henrico Matildis imperatrix. De Matildi Rex Henricus. Item de Roberto comite nata eſt Beatrix comitiſſa Pictavenſis. De Beatrice Will. comes. De Willielmo comite Alienor Regina.

*** By this it appears that Henry and Eleanor were third couſins of the half blood. Louis and ſhe were fourth couſins of the whole blood.

N°

N° IX.

This refers to vol. iii. p. 202.

Diceto Imag. Hist. col. 591, 592.

Domino Papæ Rex Anglorum.

PROPTER reverentiam ſanctæ Romanæ Eccleſiæ, atque devotionem, quam erga eam, & paternitatem ac dilectionem veſtram, & fratrum veſtrorum, habemus, & ſemper habuimus, *licet plurimum reſiſterent & reclamarent regni noſtri majores & magis diſcreti*, ad inſtantiam viri diſcreti & ſapientis, Hugonis Petrileonis, ſanctæ Romanæ Eccleſiæ cardinalis, Apoſtolicæ ſedis legati, amici & cognati noſtri, capitula quæ ſubſcripta ſunt in regno noſtro tenenda conceſſimus; videlicet, quod clericus de cætero non trahatur ante judicem ſecularem in perſona ſua, de aliquo criminali, neque de aliquo forisfacto, excepto forisfacto foreſtæ meæ, & excepto laico feodo unde mihi vel alii domino ſeculari laicum debetur ſervitium. Concedo etiam quod archiepiſcopatus, epiſcopatus, & abbatiæ, non teneantur in manu mea ultra annum, niſi urgente neceſſitate, & evidenti de cauſa, quæ propter hoc non fuerit inventa, ut diutius teneantur. Concedo etiam quod interfectores clericorum, qui eos ſcienter, vel præmeditate, interfecerint, convicti vel confeſſi coram juſticiario meo, præſente epiſcopo vel ejus officiali, *præter conſuetam laicorum vindictam* *, ſuam & ſuorum de hæreditate quæ eos contingit perpetuam ſuſtineant exhæreditationem. Concedo etiam quod clerici non cogantur facere duellum.

* I know not what to make of theſe words; for, that all felonies were attended with a forfeiture of the inheritance of the felon convicted, appears from Glanville, l. vii. c. 17. p. 59.

This refers to vol. iii. p. 206.

N° X.

Records relating to Itinerant Juſtices, from Maddox's Hiſtory of the Exchequer, page 100, 101, 102, 98, 99.

Taken from p. 100.

ROBERTUS filius Toli debet xxx marcas argenti, de placitis G. de Clintona. *Mag. Rot.* 5 *Steph. Rot.* 1. *b. Not. & Dereb**.

Sueinus de Porta debet C s, de placitis Radulfi Baſſet. *Ib. paul. inf.*

Et de x marcis argenti, de placitis G. de Clintona. *Ib. Rot.* 2. *a Wilteſiira.* Hubertus de Wiltona r. c. de Lxij l, de placitis Radulfi Baſſet pro theſauro. *Ib. paul. infr.*

Homines Willelmi de Warenna debent Lx marcas argenti, de placitis Euſtatii filii Johannis. *Ib. Rot.* 3. *a. Everwicſcira.* Burgenſes de Evervic r. c. de xxiiij l & xij s & iiij d, de placitis G. de Clinton & Soc. ejus. *Ib. Rot.* 3. *a.* Accha fil. Ernebrandi r. c. de v marcis argenti, de placitis W. Eſpec & Euſtachii filii Johannis; in operibus Regis de Everwic liberavit, et quietus eſt. *Ib. Rot.* 3. *a. Everw.*

Hugo filius Eudonis r. c. de xx s, de placitis W. Eſpec Euſtachii filii Johannis. *Ib. Rot.* 3. *b. Northumb.*

Robertus & Alwoldus de Lectona r. c. de v marcis argenti, de placitis G. de Clint. *Ib. Rot.* 5. *a. Hunted.*

Et idem Vic. r. c. de Lxviij s, de placitis G. de Clint. *Ib. Rot.* 5. *b. Sudreia.*

Aluredus Clericus præpoſitus de Stanford r. c. de j marca argenti, de placitis G. de Clint. Inth. l. Et Q. e. *Ib. Rot.* 6. *a. Eſſex.*

Gaufridus de Ou r. c. de j marca argenti, de placitis Ricardi Baſſet. *Ib. Rot.* 6. *b. Heortfordſcira.*

Et idem Vic. r. c. de xvij l & iij s & iiij d, de placitis G. de Clint. de juratoribus comitatus. In theſauro xv l & iij s & iiij d. *Ib. Rot.* 7. *a. Chent.*

P. 101.

Burgenſes de Doura debent Lx marcas argenti, de placitis Henrici de Port. & Soc. ejus. *Ib. Rot.* 7. *a. juxt.*

* The great roll here cited as the fifth of King Stephen has been proved to belong to the eighteenth year of King Henry the Firſt. See Madox, Diſſertatio Epiſtolaris de Magno Rotulo Scaccarii, at the end of his Hiſtory of the Exchequer.

Et

Et idem Vic. r. c. de xx marcis argenti, de placitis Ricardi Baſſet. *Ib. Rot.* 7. *b. Sudſexa*———de placitis G. de Clint. de juratoribus Comitatus. *Ib. Rot.* 7. *a. in imo. Sudſexa.*

Hugo Malus Vicinus r. c. de iiij marcis argenti, de placitis G. de Clint. *Ib. Rot.* 8. *a. Staff.* Et idem Gotſo [Dapifer] r. c. de v marcis argenti, de placitis Milonis Gloec. & Pagani filii Johannis. *Ib. Rot.* 8. *a. Staff.*

Giſlebertus de Miner. r. c. de v marcis argenti, de placitis Milonis Gloec. & Pagani filii Johannis. *Ib. Rot.* 8. *a. Gloeceſtreſcira.*

Robertus de Strapetona r. c. de xxxiij s & iiij d, de placitis G. de Clint. *Ib. Rot.* 9. *a. Norhampt.* Brichtwius Preſbiter r. c. de x marcis argenti, de placitis Ricardi Baſſet. *Ib. Rot.* 9. *b. Legrec.*

Radulfus de Carun r. c. de iiij l & xiij s & iiij d, de placitis G. de Clint. *Ib. Rot.* 10. *a. Nortfolc.* Fulcherus Ruffus r. c. de xl s, de plac. Ricardi Baſſet. *Ib. infra.*

Ricardus Eſturmit r. c. de ij marcis argenti, de placitis Ricardi Baſſet. Fulchardus præpoſitus de Tietford debet xxxv l & ij s & viij d, de placitis G. de Clint. *Ib. Rot.* 10. *b. Sudf.*

Et idem Vicecomes r. c. de Lvij s & vj d, de veteribus placitis Radulfi Baſſet. In th l. Et Q. e. Et idem Vic. r. c. de xl s, de placitis G. de Clint. de judicibus Burgi de Buchingcham. In th l. & Q. e. *Ib. Rot.* 11. *a. Buhcing.* Et idem Vic. r. c. de xl s, de placitis G. de Clint. de juratoribus & minutis hominibus Comitatus. *Ib. Rot.* 11. *a. Bedf.*

Goiſbertus Dapifer Rogeri de Molbrai r. c. de j marca argenti, de placitis G. de Clint. *Ib. Rot.* 11. *b. Warwic.*

Siwardus de Cantorp. r. c. de x marcis argenti, de placitis G. de Clint. Alanus de Creon r. c. de — marcis argenti, pro hominibus ſuis, de placitis W. de Albin. Alanus filius Joheli Linc. debet C s, de placitis Radulphi Baſſet. *Ib. Rot.* 12. *a. Linc.* Et idem Vic. r. c. de Lxxiiij marcis argenti & dim. de placitis Ricardi Baſſet de minutis hominibus. *Ib. Rot.* 12. *b. Linc.*

Peiſſon homo Patricii de Cadurc. debet x marcas argenti, de placitis G. de Clint. dum cuſtodivit terram Patricii. *Ib. Rot.* 13. *a. Berch.*

Et idem Vic. debet Lv s, de minutis placitis W. Eſpec. & Euſtachii filii Johannis. *Ib. Rot.* 14. *b. Chaerleolium.*

Et idem Vicecomes r. c. de vij l & vj s & viij d, de placitis Roberti Arundell & ſoc. ejus de Foreſta. *Mag. Rot.* 5 *Steph. Rot.* 2. *a. Dorſeta.*

Walterus Eſpec r. c. de CC marcis argenti de placito Cervi; In theſauro L marcas argenti, et debet Cl. *Ib. Rot.* 3. *b. Everwic.*

Et idem Vicecomes r. c. de xxvj s & viij d, de placitis G. de Clint. de Foreſta. *Ib. Rot.* 5. *a. Hunted.*

Et idem Vicecomes r. c. de C & xxx marcis argenti, & dimidia de placitis W. de Albini & ſoc. ejus de Foreſta. *Ib. Rot.* 6. *a. Eſſex.*

Gotſo Dapifer debet xxv marcas argenti, de placitis Milonis Gloec. de Foreſta de Epiſcopatu Ceſtriæ. *Ib. Rot.* 8. *a. Stafford.*

Ranulfus Parcarius r. c. de xxv l & j marca argenti, de placitis Radulfi Baſſet. *Ib. Rot.* 10. *a. Norfolc.*

Et idem Vicecomes r. c. de x l & iij s & iiij d, de placitis Roberti Arundel de Foreſta. *Ib. Rot.* 16. *a. Deveneſc.*

Et idem Vicecomes r. c. de x l & v s, de placitis Roberti Arundel & ſoc. ejus de Foreſta. *Ib. Rot.* 16. *b. Cornualia.*

P. 102. De placitis Comitis Gaufridi & Ricardi de Luci. *Mag. Rot.* 12 *H.* II. *Rot.* 1. *a. Linc.*

Ib. Rot. 1. *b. Buching. & Bedef.*
Ib. Rot. 2. 3. *Norf. & Suthf.*
Ib. Rot. 3. *b. Everwichſc.*
Ib. Rot. 4. *a. Not. & Derb.*
Ib. Rot. 4. *b.*
Ib. Rot. 5. *a. War. & Legrec.*
Ib. Rot. 5. *b. Norhumb.*
Ib. Rot. 6. *b. Cantebr. & Huntend.*
Ib. Rot. 8. *b. Surr.*
Ib. Rot. 9. *a. in imo Chent.*
Ib. Rot. 10. *a. Eſſexa & Hertfortſc.*
Ib. Rot. 6. *b. Caerliolium.*
Mag. Rot. 12 *H.* II. *paſſim.*

De placitis Comitis Gaufridi & Ricardi de Luci de hominibus de Lenna. Mag. Rot. 13 H. II. Rot. 3. a. Norf. & Suthf.

De placitis of the ſame perſons, ut ſupra. *Ib. Rot.* 3. *b. Suthſexa.*

De placitis, ut ſupra. *Ib. Rot.* 4. *a Lincolieſcira.*

De placitis ut ſupra. *Ib. Rot. 5. b. Northumberl.*
Ut ſupra; *Ib. Rot. 6. a. Everwich.*
Ut ſupra; *Ib. Rot. 7. a. Buching. & Bedf.*
Ut ſupra; *Ib. Rot. 8. a. Norhanteſc.*
Ut ſupra; *Ib. Rot. 9. b. Not. & Derb.*
Ut ſupra; *Ib. Rot. 10. b. Eſſex & Hurtf.*
Ut ſupra; *Ib. Rot. 11. a. War. & Legrec.*
Ut ſupra; *Ib. Rot. 11. a. Cant. & Hunt.*
Ut ſupra; *Ib. Rot. 13. a. Chent.*
Ut ſupra; *Ib. Rot. 13. b. Surr.*

De placitis Ricardi de Luci; *Ib. Rot. 11. b. Carleolium.*

Nova placita & novæ Conventiones de placitis Alani de Nevilla. *Mag. Rot. 13 H. II. Rot. a. Berrocheſcira.*

N. P. & N. C. de Placitis Alani de Nevilla. *Ib. Rot. 4. b. Lincol.*
Ut ſupra; *Ib. Rot. 4. b. Staff.*
Ut ſupra; *Ib. Rot. 5. a. Salopeſcira.*
Ut ſupra; *Ib. Rot. 5. a. Wincheſtr.*
Ut ſupra; *Ib. Rot. 5. b. Heref. in Wallis.*
Ut ſupra; *Ib. Rot. 5. b. Northumb.*
Ut ſupra; *Ib. Rot. 6. b. Everwich.*
Ut ſupra; *Ib. Rot. 7. a. Buching. & Bedf.*
Ut ſupra; *Ib. Rot. 8. a. Northanteſcira.*

De placitis Alani de Nevilla. *Ib. Rot. 8. b. Rotel.*
Ut ſupra; *Ib. Rot. 9. a. Wilt.*
Ut ſupra; *Ib. Rot. 9. b. Not. & Derb.*
Ut ſupra; *Ib. Rot. 10. a. Gloec.*
Ut ſupra; *Ib. Rot. 11. a. Cant. & Hunt.*
Ut ſupra; *Ib. Rot. 12. a. Hanteſcira.*

Nova placita & novæ Conventiones de Foreſtis, per Alanum de Nevilla. *Ib. Rot. 11. b. Deveneſcira.*

De placitis Archidiaconi Pictavenſis & Guidonis Decani & Reginaldi de Warenna, & Willielmi Baſſet. *Ib. Rot. 3. b. Eſſexa & Herfordſcira.*

De placitis Widonis Decani de Waltham, & Willielmi Baſſet, & Reginald de Warenna. *Ib. Rot. 5. b. Lincol.*

De placitis Alani de Navilla: Radulfus de Ferrariis debet x marcas, pro feſtinando judicio ſuo de Ricardo Fabro, qui eum & homines ſuos appellavit de cervo quem eos capere vidit, poſtea ſe inde retraxit. *Ib. Rot.* 9. *b. Deveneſcira.*

P. 98. De placitis Widonis Decani, & Willelmi Baſſet, & Reginaldi de Warenna. *Mag. Rot.* 15 *H. II. Rot.* 1. *b. Nicholeſcira.*

De placitis Archidiaconi Pictavienſis, & Widonis Decani, & Reginaldi de Warenna, & ipſius Willelmi Baſſet (who was ſheriff that year of War. and Leic.) in Legerceſtreſcira. Item de placitis eorundem in Warwicſcira. *Ib. Rot.* 2. *b.*

Ib. Rot. 4. *b.*

Ib. Rot. 10. *b.*

De placitis Archidiaconi Pict. & Widonis Decani, & Reginaldi de Warenna. *Ib. Rot.* 12. *b. Surreia. & ib. tit. Lundonia & Midd.*

De placitis ComitisGalfiridi & Ricardi de Luci. *Ib. Rot.* 3. *a. Evervicſcira.*

Ib. Rot. 5. *b.*

De placitis Widonis Decani & Willelmi Baſſet. *Ib. Rot.* 5. *b. Staff.*

De placitis Decani de Waltham, & Willielmi Baſſet. *Ib. Rot.* 8. *a. Glowec.*

De placitis Archidiaconi Pictavenſis, & Widonis Decani, & Reginaldi de Warenna, & Willelmi Baſſet. *Ib. Rot.* 7. *b. Norf. & Sudf.* De placitis Comitis Gaufridi, & Ricardi de Luci, de hominibus de Lenna. *Ib. Rot.* 7. *a.*

De placitis Reginaldi de Warenna & Johannis Cumin in Sumerſeta. Placita eorundem in Dorſeta. *Ib. Rot.* 1. *b.*

Ib. Rot. 2. *a.*

De placitis Reginaldi de Warenna, & Johannis Cumin, Gervaſii de Cornhill. *Ib. Rot.* 2. *b. Deveneſcira.*

In Mag. Rot. præd. anni 15. *paſſim.*

De placitis Comitis Galfridi & Ricardi de Luci de hominibus de Lenna. De placitis Archidiaconi Pictaviæ, & Widonis Decani, & Reginaldi de Warenna, & Willelmi Baſſet. De Placitis Widonis Decani & Ogerii Dapiferi. *Mag. Rot.* 16 *H. II. Rot.* 1. *a. & b. Norfolch & Sudfolch.*

De Placitis Archidiaconi Pictaviæ, & Reginaldi de Warenna, & Widonis Decani. *Ib. Rot.* 1. *b. Lundonia & Middleſexa.*

De Placitis Comitis Galfridi & Ricardi de Luci. Item de Placitis Archidiaconi Pictaviæ. De placitis Alani de Nevill [for the Foreſt]. *Ib. Rot.* 2. *a. Northamtonſcira.*

De Placitis Willelmi Baſſet & Alani de Nevill junioris. De Placitis Roberti de Stutevill & Hugonis de Morvill. Nova placita & novæ Conventiones; de Placitis Alani de Nevill junioris [for the Foreſt]. *Ib. Rot.* 2. *Carleolium.*

De Placitis Comitis Galfridi & Ricardi de Luci. De Placitis Alani de Nevill junioris & Willelmi Baſſet. *Ib. Rot.* 3. *a. Everwichſcira.* P. 99.

De Placitis Willelmi Baſſet & Alani de Nevill junioris. Placita Roberti de Stutevill & Hugonis de Morvill. De Placitis Alani de Nevil junioris [for the Foreſt]. *Ib. Rot.* 3. *b. Northumberland.*

De Placitis Alani de Nevill [for the Foreſt]. Item de Placitis Alani de Nevill. De Placitis Reginaldi de Warenna & Johannis Cumin. *Ib. Rot.* 4. *a. & b. Wilt.*

De Placitis Alani de Nevill [for the Foreſt]. N. P. & N. C. De Placitis Alani de Nevill junioris. *Ib. Rot.* 4. *a. & b. Berochſcira.*

De Placitis Alani de Nevill. De Placitis Widonis Decani & Willelmi Baſſet. De Placitis Alani de Nevill junioris. *Ib. Rot.* 5. *b. Gloec.*

De Placitis Alani de Nevill. De Placitis Willelmi Baſſet & Alani de Nevill junioris. *Ib. Rot.* 6. *a. & b. Nottinch. & Derb.*

De Placitis Willelmi Baſſet & Alani de Nevill junioris. *Ib. Rot.* 6. *a. & b. Warwicſc. & Legrec.*

De Placitis Archidiaconi Pictavæ, & Widonis Decani, & Reginaldi de Warenna, & Willelmi Baſſet. *Ib. Rot.* 6. *b. Cantebr. & Hunted.*

De Placitis Reginaldi de Warenna, & Johannis Cumin, & Gervaſii de Cornhell. De Placitis Alani de Nevill [for the Foreſt]. *Ib. Rot.* 7. *a. Deveneſc.*

De Placitis Archidiaconi Pictaviæ, & Guidonis Decani, & Reginaldi de Warenna, & Willelmi Baſſet. De placitis Alani de Nevill [for the Foreſt]. *Ib. Rot.* 8. *a. Eſſexa & Hurtf.*

De Placitis Reginaldi de Warenna & Johannis Cumin. N. P. & N. C. De Placitis Alani de Nevill junioris. *Ib. Rot.* 8. *b. Dorſeta & Sumerſ.*

De Placitis Archidiaconi Pictaviæ, & Reginaldi de Warenna, & Decani de Waltham, & Willielmi Baſſet. De Placitis Alani de Nevill [for the Foreſt] *Ib. Rot.* 9. *a. Hanteſcira.* De Placitis Reginaldi de Warrenna & Johannis Cumin. *Ib. Rot.* 9. *Civitas Wintoniæ.*

De Placitis Widonis Decani & Willelmi Baſſet. De Placitis Alani de Nevill [for the Foreſt] De Placitis Ricardi de Luci. (Theſe laſt I think were old Pleas, or Pleas of a former year.) *Ib. Rot.* 9. *b. Staff.*

De Placitis Archidiaconi Pictaviæ, & Guidonis Decani, & Reginaldi de Warenna, & Willelmi Baſſet. De Placitis Archidiaconi Pictaviæ & Widonis Decani. *Ib. Rot.* 10. *a. Sudſexa.*

De Placitis Comitis Galfridi & Ricardi de Luci. De Placitis Widonis Decani, & Reginaldi de Warrenna, & Willelmi Baſſet. De Placitis Willelmi Baſſet & Alani de Nevill. *Ib. Rot.* 10. *a.* & *b. Nicholeiſcira.*

De Placitis Archidiaconi Pictaviæ, & Widonis Decani, Reginaldi de Warenna, & Henrici filii Geroldi Camerarii. *Ib. Rot.* 11. *a. Chent.*

De Placitis Archidiaconi Pictavenſis, & Widonis Decani, & Reginaldi de Warenna. De Placitis Alani de Nevill. *Ib. Rot.* 11. *b. Surreia.*

De Placitis Archidiaconi Pictavenſis, & Widonis Decani, & Reginaldi de Warrenna & Willelmi Baſſet. De Placitis Widonis Decani & Ogeri Dapiferi. Mag. Rot. 17 H. II. a. Norf. & Sudf.

P. 100. De Placitis Archidiaconi Pictavenſis, & Reginaldi de Warrenna, & Decani de Waltham, Willelmi Baſſet. *Mag. Rot.* 17 *H. II. Rot.* 3. *a. Hanteſcira.*

De Placitis Reginaldi de Warenna & Johannis Cummin. *Ib. Rot.* 3. *b. Civit. Wintoniæ.*

Ib. Rot. 3. *b.*

De Placitis Willelmi Baſſet & Alani de Nevill Junioris. *Ib. Rot.* 4. *a. Not. & Derb.*

De Placitis Ricardi de Luci. *Ib. Rot.* 4. *a.*

De Placitis Alani de Nevill junioris & Willelmi Baſſet. *Ib. Rot.* 5. *a.*

Ib.

Ib. Rot. 5. *b. Northumbreland.*

De Placitis Roberti Stutevill. *Ib. Rot.* 5. *b. Carleolium.*

De Placitis Widonis Decani & Willelmi Baſſet. *Ib. Rot.* 6. *a. Gloceſtreſcira.*

De Placitis Willelmi Baſſet & Alani de Nevill junioris. *Ib. Rot.* 6. *b. War. & Legrec.*

De Placitis Widonis Decani, & Reginaldi de Warenna, & Willelmi Baſſet, & Alani de Nevill junioris. *Ib. Rot.* 7. *a. Lincolnſcira.*

De Placitis Archidiaconi Pictaviæ, & Widonis Decani, & Reginaldi de Warenna, & Willielmi Baſſet. *Ib. Rot.* 7. *b. Cantebr. & Hunt.*

Ib. Rot. 8. *a. Eſſexa & Hurtf.*

Ib. Rot. 8. *b. Sudſexa.*

De Placitis Archidiaconi Pictaviæ, & Widonis Decani, & Reginaldi de Warenna & Henrici filii Geroldi Camerarii. *Ib. Rot.* 9. *a. Chent.*

Ib. Rot. 9. *b. Surreia, & Lundonia & Midd.*

Mag. Rot. prædicti anni 17. *paſſim.*

N° XI.

This refers to vol. iii. p. 210, 211,

From Benedict. Abb. t. i. *p.* 136.

" *Hæ ſunt Aſſiſæ factæ apud Clarendune, et poſtea recordatæ apud*
" *Northamtoniam.*

" SI quis rectatus fuerit coram Juſticiariis Domini Regis de Murdro,
" vel Latrocinio, vel Roberia, vel Receptatione hominum talia fa-
" cientium, vel de Falſoneria, vel iniqua Combuſtione, per Sacramen-
" tum Duodecim Militum de Hundredo, et, ſi Milites non adfuerint, per
" Sacramentum duodecim Liberorum Legalium hominum, et per Sa-
" cramentum quatuor de unaquaque Villa Hundredi, eat ad Judicium
" Aquæ; et ſi perierit, alterum Pedem amittat. Et apud Northampto-
" niam additum eſt, pro rigore Juſticiæ, quod dexterum ſimiliter pug-
" num cum pede amittat, et Regnum abjuret, et infra quadraginta dies
" à Regno

" à Regno exulet. Et ſi ad Aquam mundus fuerit, inveniat Plegios,
" & remaneat in Regno, niſi retatus fuerit de Murdro, vel alia turpi
" Felonia, per commune Comitatus & legalium Militum Patriæ: de
" quo, ſi prædicto modo rectatus fuerit, quamvis ad Aquam ſalvus fu-
" erit, nichilominus infra quadraginta dies à Regno exeat, & Catalla
" ſua ſecum aſportet, ſalvo jure Dominorum ſuorum, & Regnum ab-
" juret, in Miſericordia Domini Regis. Hæc autem Aſſiſa attenebit à
" tempore, quo Aſſiſa facta fuit apud Clarendone, continue uſque ad
" hoc tempus; et amodo, quam diu Domino Regi placuerit, in Mur-
" dro, et Proditione, & iniqua Combuſtione, et in omnibus prædictis Ca-
" pitulis, niſi in Minutis Furtis & Roberiis, quæ facta fuerunt tem-
" pore Guerræ, ſicut de Equis, & Bobus, et minoribus rebus.

" Item, nulli liceat, neque in Burgo neque in Villa, hoſpitari ali-
" quem Extraneum, ultra unam noctem, in domo ſua, quem ad Rectum
" habere voluerit; niſi Hoſpitatus ille Eſſonium rationabile habuerit,
" quod Hoſpes domûs monſtret vicinis ſuis. Et cum receſſerit, coram
" Vicinis recedat, et per Diem.

" Si quis ſaiſitus fuerit de Murdro, vel Latrocinio, vel Roberia, vel
" Falſoneria, et inde ſit cognoſcens, vel de aliqua alia Felonia, quam
" fecerit coram Præpoſito Hundredi vel Burgi, et coram Legalibus Ho-
" minibus; id poſtea coram Juſticiis negare non poterit. Et ſi idem
" ſine ſaiſina coram eis aliquid hujuſmodi recognoverit, hoc ſimul coram
" Juſticiis negare non poterit.

" Item, Si quis obierit Francus-tenens, Heredes ipſius remaneant in
" tali Saiſina, qualem Pater ſuus habuit die, qua fuit Vivus & Mortuus,
" de Feodo ſuo: et Catalla ſua habeant, unde faciant diviſam defuncti.
" Et Dominum ſuum poſtea requirant, et ei faciant de Relevio, et aliis,
" quæ ei facere debent de feodo ſuo. Et ſi heres fuerit infra ætatem,
" Dominus Feodi recipiat Homagium ſuum, & habeat in Cuſtodia illum
" quamdiu debuerit. Alii Domini, ſi plures fuerint, Homagium ejus re-
" cipiant, et ipſe faciat eis quod facere debuerit. Et uxor defuncti ha-
" beat dotem ſuam, & partem de Catallis ejus, quæ eam contingit. Et
" ſi Dominus Feodi negat Heredibus defuncti Saiſinam ejuſdem defuncti,
" quam exigunt, Juſticiæ Domini Regis faciant inde fieri recogni-
" tionem per duodecim Legales Homines, qualem Saiſinam defunctus

" inde

" inde habuit, die qua fuit Vivus & Mortuus. Et, ſicut recognitum
" fuerit, ita Heredibus eis reſtituant. Et ſiquis contra hoc fecerit, et
" inde Attaintus fuerit, remaneat in Miſericordia Regis.

" Item, Juſticiæ Domini Regis faciant fieri Recognitionem de Diſſai-
" ſinis factis ſuper Aſſiſam, à tempore quo Dominus Rex venit in An-
" gliam, proximo poſt Pacem factam inter Ipſum & Regem filium
" ſuum.

" Item, Juſticiæ capiant Domini Regis Fidelitates infra Clauſum-Paſcha,
" et ad ultimum infra Clauſum-Pentecoſten, ab omnibus, ſcilicet Comiti-
" bus, Baronibus, Militibus, & Libere-tenentibus, et etiam Ruſticis,
" qui in Regno manere voluerint. Et qui facere noluerit Fidelitatem,
" tanquam inimicus Domini Regis capiatur. Habent etiam Juſticiæ
" præcipere, quod omnes illi, qui nondum fecerunt Homagium & Li-
" gantiam Domino Regi, quod ad terminum, quod eis nominabunt,
" veniant, & faciant Regi Homagium & Ligantiam ſicut Ligio Do-
" mino.

" Item, Juſticiæ faciant omnes Juſticias & Rectitudines ſpectantes ad
" Dominum Regem, & ad Coronam ſuam, per Breve Domini Regis,
" vel illorum qui in loco ejus erunt, de feodo dimidii Militis & infra;
" niſi tam grandis ſit querela, quod non poſſit deduci ſine Domino Rege,
" vel talis, quam Juſticiæ ei reportent pro dubitatione ſua, vel ad
" Illos qui in loco ejus erunt. Intendant tamen, pro poſſe ſuo, ad
" Commodum Domini Regis faciendum. Facient etiam Aſſiſam de La-
" tronibus iniquis & Malefactoribus terræ; (quæ Aſſiſa eſt per Conſilium
" Regis, filii ſui, et Hominum ſuorum) per quos ituri ſunt Comi-
" tatus.

" Item, Juſticiæ provideant, quod Caſtella diruta prorſus diruantur,
" et diruenda bene proſternantur. Et niſi hoc fecerint, Dominus Rex Ju-
" dicium Curiæ ſuæ de eis habere voluerit, ſicut de Contemporibus Præ-
" cepti ſui.

" Item, Juſticiæ inquirant de Excaetis, de Eccleſiis, de Terris, de Fe-
" minis, quæ ſint de Donatione Domini Regis.

" Item, Baillivi Domini Regis reſpondeant ad Scaccarium, tam de
" Aſſiſo Redditu, quam de omnibus Perquiſitionibus ſuis, quas faciunt
" in Bailliis ſuis. Exceptis illis, quæ pertinent ad Vicecomitatum.

" Item,

" Item, Juſticiæ inquirant de Cuſtodiis Caſtellorum, et qui, et quan-
" tum, & ubi eas debeant; & poſtea mandent Domino Regi.

" Item, Latro ex quo capitur, Vicecomiti tradatur ad cuſtodiendum.
" Et ſi Vicecomes abſens fuerit, ducatur ad proximum Caſtellanum, et
" ipſe illum cuſtodiat, donec illum liberet Vicecomiti.

" Item, Juſticiæ faciant quærere per Conſuetudinem Terræ illos, qui
" à Regno receſſerunt. Et niſi redire voluerint infra terminum nomi-
" natum, & ſtare ad Rectum in Curia Domini Regis, poſtea Utlagentur;
" et Nomina Utlagorum afferant ad Paſcha, et ad feſtum Sancti Mi-
" chaëlis, ad Scaccarium, et exinde mittantur Domino Regi."

This refers to vol. iii. p. 215.

N° XII.

From the Tranſcript in Selden's Notes to Eadmerus, p. 193, 194.

WILLIELMUS Dei Gratia Rex Anglorum, Omnibus ad quos ſcriptum hoc perveniet ſalutem et amicitiam. Mando et præcipio per totam Angliæ nationem cuſtodiri; Si Anglicus homo [1] compellet aliquem Francigenam per bellum de furto vel homocidio vel aliqua re pro qua bellum fieri debeat vel judicium inter duos homines, habeat plenam licentiam hoc faciendi. Et ſi Anglicus bellum noluerit, *Francigena compellatus adlegiet ſe jurejurando contra eum per ſuos teſtes ſecundum legem Normanniæ. Item ſi *Francigena compellat Anglicum per bellum de eiſdem rebus, Anglicus plena licentia defendat ſe per bellum, vel per [2] judicium, ſi magis ei placeat. Et ſi uterque [3] ſit invalidus, et nolit bellum vel non poſſet [4], quærat ſibi legalem defenſorem. Si Francigena victus fuerit perſolvat Regi lx s. Et ſi Anglicus nolet defendere ſe per bellum vel per teſtimonium, adlegiet ſe per [5] Dei judicium. De omnibus utlagariæ rebus Rex inſtituit, ut Anglicus ſe purget [6] ad judicium. Et ſi Anglicus appellat Francigenam de utlagaria, & hoc ſuper eum inveritare velit, defendat ſe Francigena per bellum. Et ſi Anglicus non audeat [7] enim probare per bellum, defendat ſe Francigena pleno juramento, non in verborum obſervantiis.

[1] *compellat* Brompton Chron. col. 982.

[2] *ferrum* Wilkins.
[3] Ille Wilkins.
[4] *poſſit* Brompton, Wilkins.
[5] *ferrum* Wilkins.
[6] *per ferrum.* Wilkins.
[7] *Eum compellare ad bellum.*

* In the Copy given by Wilkins, it ſtands thus, " Francigena compellans Anglum purget ſe in jure-
" jurando teſtes ſecundum Legem Normanniæ." But the ſenſe is much better as I have given it here from Selden.

N°

N° XIII.

This refers to vol. iii. p. 215, at the bottom.

From Wilkins, p. 229.

DECRETUM eſt etiam ibi, ut ſi Francigena appellaverit Anglum de perjurio, aut murdro, furto, aut homicidio, [1] *Ran*, quod dicunt apertam rapinam, quæ negari non poteſt, Anglus ſe defendat per quod melius voluerit, aut judicio ferri, aut duello. Si autem Anglus infirmus fuerit, inveniat alium qui pro eo faciat. Si quis eorum victus fuerit, emendet Regi xxl ſolidos. Si autem Anglus Francigenam appellaverit & probare voluerit judicio aut duello, volo tunc Francigenam purgare ſe ſacramento non [2] fracto.

[1] Ibidem p. 218. *Aut Ran, quod dicitur aperta rapina.*

[2] *ferro.* Hoveden.

N° XIV.

This refers to vol. iii. p. 220.

From Wilkins, p. 229.

INTERDICIMUS etiam ne quis occidatur, vel ſuſpendatur pro aliqua culpa, ſed enerventur (eruantur) oculi, & abſcindantur pedes, vel teſticuli, vel manus, ita quod truncus remaneat vivus in ſignum proditionis, & nequitiæ ſuæ: ſecundum enim quantitatem delicti debet pœna maleficis infligi. Iſta præcepta non ſint violata ſuper forisfacturam noſtram plenam. Teſtibus, &c.

This refers to vol. iii. p. 243.

N° XV.

From Rymer's Fœdera, p. 36.

A. D. 1174.
A. 20 H. II.
L. B.

HENRICUS Dei gratia Rex Angliæ, Dominus Hiberniæ, Dux Normanniæ, Aquitaniæ, Comes Andegaviæ, Archiepiſcopis, Epiſcopis, Abbatibus, Prioribus, Comitibus, Baronibus, Juſticiariis, Vicecomitibus, Præpoſitis, Miniſtris, & omnibus Ballivis & Fidelibus ſuis, ſalutem. Sciatis quod pro ſalute animæ noſtræ & animarum Anteceſſorum & Hæredum noſtrorum, & ad malas conſuetudines abolendas conceſſimus, & hac Carta noſtra confirmavimus pro nobis & Hæredibus noſtris in perpetuum, quotieſcumque de cætero contigerit aliquam navem periclitari in poteſtate noſtra, ſive in Coſtera Maris Angliæ, ſive in Coſtera Pictaviæ, ſive in Coſtera Inſulæ Oleronis, ſive in Coſtera Waſconiæ, & de navi taliter periclitata aliquis homo vivus evaſerit & ad terram venerit, omnia bona & catalla in navi illa contenta remaneant & ſint eorum quorum prius fuerunt, & eis non deperdantur nomine Wrecci. Et ſi de navi taliter periclitata nullo homine vivo evadente contingat quamque beſtiam aliam vivam evadere, vel in navi illa vivam inveniri, tunc bona & catalla illa per manus Ballivorum noſtrorum, vel Hæredum noſtrorum, vel per manus Ballivorum ipſorum, in quorum terra navis fuerit periclitata, liberentur quatuor probis hominibus cuſtodienda uſque ad terminum trium menſium, ut ſi illi, quorum catalla illa fuerint, infra terminum illum venerint ad exigendum catalla illa, et probare poſſint ipſa catalla ſua eſſe, eis liberentur quieta. Si vero infra prædictum terminum nullus veniret ad exigendum catalla illa, tunc noſtra ſint & Hæredum noſtrorum nomine Wrecci, vel alterius qui libertatem habuerit Wreccum habendi. Si vero de navi periclitata taliter nullus homo vivus evaſerit, nec alia beſtia ſicut prædictum eſt, tum bona & catalla in navi illa contenta noſtra ſint & Hæredum noſtrorum nomine Wrecci, vel alterius ubi navis fuerit periclitata, qui libertatem habuerit Wreccum habendi. Quare volumus & firmiter præcipimus pro nobis & Hæredibus noſtris, quod, quotienſcunque de cætero contingeret aliquam navem periclitari, in poteſtate noſtra, ſive in Coſtera Maris Angliæ, ſive in Coſtera Pictaviæ, ſive

ſive in Coſtera Inſulæ Oleronis, ſive in Coſtera Waſconiæ, & de navi taliter periclitata aliquis homo vivus evaſerit & ad terram venerit, omnia bona & catalla in navi illa contenta remaneant, & ſint eorum quorum prius fuerint, & eis non deperdantur nomine Wrecci. Et ſi de navi taliter periclitata, nullo homine vivo evadente, contingat quamcumque beſtiam aliam vivam evadere, vel in navi illa vivam inveniri, tunc bona & catalla illa per manus Ballivorum noſtrorum, vel Hæredum noſtrorum, vel per manus Ballivorum ipſorum, in quorum terra navis fuerit periclitata, liberentur quatuor probis hominibus cuſtodienda uſque ad terminum trium menſium, ut ſi illi, quorum catalla illa fuerint, infra terminum illum venerint ad exigendum catalla illa, & probare poſſint ipſa catalla ſua eſſe, eis liberentur quieta. Si vero infra prædictum terminum nullus venerit ad exigendum catalla illa, tunc noſtra ſint & Hæredum noſtrorum nomine Wrecci, vel alterius qui libertatem habuerit Wreccum habendi. Et ſi de navi illa taliter periclitata nullus homo vivus evaſerit, vel alia beſtia ſicut prædictum eſt, tunc bona & catalla, in navi illa contenta, noſtra ſint & Hæredum noſtrorum nomine Wrecci, vel alterius, ubi navis fuerit periclitata, qui libertatem habuerit Wreccum habendi, ſicut prædictum eſt. Hiis Teſtibus,

Venerabili Patre W. Karleol. Epiſcopo.
W. Valentin. Electo.
J. Com. Linc. & Conſtabular. Ceſtriæ.
Petro de Malo Lacu.
Henr. de Trublevill. tunc Seneſcall Waſconiæ.
Hug. Diſpenſ.
Godefrido de Sancumb.
Amaur de Sancto Amando.
Willelmo de Beel.
Galfr. Diſpenſ.
Galfrido de Cauz.
Barth. Pech.
Johanne Guband, & aliis.

Datum per manum venerabilis Patris Radulphi Cyceſtr. Epiſcopi, Cancellar. noſtri, apud Merewell. viceſimo ſexto die Maii, Anno Regni noſtri viceſimo.

N° XVI.

Tranſcribed from Wilkins, p. 219.

These were promiſed to the reader in the Appendix to the firſt volume, p. 528.

I.

PAX Sanctæ Eccleſiæ. Cujuſcunque Forisfacturæ quis reus ſit hoc tempore, & venire poteſt ad Sanctam Eccleſiam, Pacem habeat vitæ & membri. Et ſi quis injecerit manum in eum qui matrem Eccleſiam quæſierit, ſive ſit Abbatia, ſive Eccleſia Religionis, reddat eum quem abſtulerit, & centum ſolidos nomine Forisfacturæ, et Matri Eccleſiæ Parochiali xx ſolidos, et Capellæ x ſolidos. Et qui fregerit pacem Regis in Merchenelega, centum ſolidis emendet; ſimiliter de compenſatione homicidii, & de inſidiis præcogitatis *.

II.

Hæc placita pertinent ad Coronam Regis. Et ſi aliquis aut aliqua vexaverit, (moleſtaverit aut) malefecerit hominibus ilius Ballivæ & de hoc ſit attinctus per juſtitiam Regis, Forisfactura ſit dupla illius quam alius quiſpiam forisfecerit †.

III.

Et qui in Danelega violaverit pacem Regis, cxliv libris emendet. Et Forisfacturæ Regis quæ pertinent ad Vicecomitem, xl ſolidi in Merchenelega, & l ſolidi in Weſtſexenelega. Et de libero homine qui habet Sac & Soc & Tol & Tem & Infangentheof & implacitatus fuerit, & ad Forisfacturam poſitus in Comitatu, pertinet Forisfactura ad opus Vicecomitis xl Oræ in Danelega, & de alio homine, qui ejuſmodi Libertatem non habet, Oræ xxxii. De his xxxii oris habebit Vicecomes ad uſum Regis

* In tranſcribing this ſtatute I have altered ſome of the ſtops, which are evidently wrong and hurt the ſenſe.

† This is obſcurely worded, but the ſenſe of it is, that for any ill treatment of the King's tenants in his bailliwick the forfeiture ſhould be double to what it would be in the caſe of any other man. This, and ſome other ſtatutes of William the Firſt, here given, were not in uſe under Henry the Second, when Glanville's treatiſe was written.

oras

oras decem, & is qui eum implacitaverit habebit in remedium verſus eum oras xii, & Dominus in cujus finibus manſerit x oras. Hæc eſt in Danelega *.

IV.

Hæc eſt Conſuetudo in Merchenelega, ſi quis appellatus fuerit de Latrocinio, ſeu de Furto, & plegiatus fuerit venire ad juſticiam, & fugerit interim, Plegius ejus habebit iv menſes & unum diem ad eum quærendum, & ſi poſſit eum invenire, juret ſe duodecima manu, quod tempore quo eum plegiavit Latro non fuerat, neque per eum eſſet quod fugerit, nec eum prehendere poſſit. Tunc reddat Catallum, & xx ſolidos pro capite, & iv denarios ei qui ceperit ipſum, & unum obolum pro inquiſitione, & xl ſolidos Regi. In Weſtſexenelega c ſolidos ad clamorem pro Capite, & iv libras Regi. Et in Danelega, Forisfactura eſt viii libræ, xx ſolidi pro Capite, & vii libræ Regi. Et ſi is poteſt infra annum & iv dies invenire Latronem, & eum perducere ad juſtitiam, redhibebunt ei viginti ſolidos quos acceperint, & fiat juſtitia de Latrone.

P. 220.

V.

Is qui prehenderit Latronem abſque ſecta & abſque clamore, quem dimiſerit ei cui damnum fecerit, & venerit poſtea, juſtitiam poſtulaturus, rationi conveniens eſt, ut det x ſolidos de † Henguite & finem faciet juſtitiæ ad primam Curiam, & ſi confirmetur in Curia, abſque licentia juſtitiæ, ſit forisfactura de xc ſolidis.

VIII.

Si quis alium occiderit, & ſit reus confitens, & emendare negaverit, det de ſuo Manbote Domino pro libero homine x ſolidos & pro ſervo xx ſolidos. Wera Thani eſt xx libræ in Merchanelega, & in Weſt-Sexenelega. Et Wera Villani ‡ c ſolidi in Merchenelega, atque etiam in Weſt-Sexenlega.

* This law only ſhews the difference of the mulcts in different parts of the kingdom, as they had been eſtabliſhed by the Danes or Saxons inhabiting there. Twelve oræ made a pound.

† This word ſignifies a mulct for the eſcape of a robber.

‡ I preſume that *Villani* here muſt be underſtood to mean, not ſlaves, but farmers. *Wera* ſignifies the price of a man's life.

IX.

Quod ad Weram attinet, primo reddat is qui eſt de nobili ſanguine, Viduæ et Orphanis x ſolidos; et quod ſupereſt, Orphani et cognati inter ſe dividant.

X.

In Weră reddere potuit quis Equum non caſtratum pro xx ſolidis, et Taurum pro x ſolidis, et Jumentum pro v ſolidis*.

XI.

Si quis alium percuſſerit, & negaverit ultra emendare, primo illi reddat caput ſuum (id eſt, capitis pretium, vulgo Wergildum) & illi percuſſor juret ſuper Sancta quod aliter non potuerit facere, nec ex malitia quacunque ille fuerit in terram dejectus, id quod (cauſa) doloris eſt.

XII.

Si plaga alicui eveniat viſui aperto, capite toto viſo iv denarios det percuſſor, et de omni oſſe, quod quis traxerit ex plaga, oſſe toto viſo, iv denarios; poſtea compoſitio ei fiat, ſecundum honores quos ei (os vel caput) fecerint; hoc cum fecerit, ſi cor ſuum ei benevolum monſtraverit, & conſilium ſuum ei donaverit, accipiat ab illo quod ei abſtulerit †.

XIII.

Si acciderit ut quis pugnum cujuſpiam abſciderit aut pedem, reddat ei medietatem Weræ, ſecundum id quod factum eſt. Sed pro pollice reddat medietatem manus. Pro digito qui pollici proximus, xv ſolidos, de ſolido Anglicano, hoc eſt, quatuor denarios. Pro digito longo xvi ſolidos. Pro altero qui portat annulum, xvii ſolidos. Pro digito minimo v ſolidos. Si unguem quis præciderit, pro quolibet v ſolidos de ſolido Anglicano, & pro ungue digiti minimi iv denarios.

XIV.

Qui deſponſatam alterius vitiaverit, forisfaciat Weram ſuam Domino ſuo.

* Theſe prices are remarkable, as they ſhew the high value of money in thoſe days.

† Some parts of this ſtatute are obſcure.

XV.

XV.

Etiam qui falſum tulerit judicium, Weram ſuam perdat, niſi ſuper ſacroſancta (Evangelia) probare poterit, ſe melius judicare neſciviſſe.

XVI.

Si quis alterum appellet de Latrocinio & is ſit liber homo, & habeat exinde verum teſtimonium de legalitate, purget ſe per plenum ſacramentum, & alter qui infamis ante fuerat per ſacramentum nominatum, videlicet xiv homines legales; attamen ſi is habere eos poterit, purget ſe duodecima manu, et ſi habere non poſſit, ſe defendat per judicium, & appellator jurabit (præter eum jurent vii homines nominati) quod propter malitiam non fecerit, nec propter aliam cauſam, quam quia jus ſuum perſequeretur. P. 222.

XVII.

Et ſi quis appellatus fuerit de fractione Monaſterii aut Cubiculi, neque fuerit infamis a retro, ſe purget per xlii legales homines nominatos duodecima manu; & ſi alias infamia notatus fuerit, purget ſe per triplum, videlicet per xlviii homines legales nominatos trigeſima ſexta manu; & ſi illos habere nequierit, eat ad judicium per triplum, ſi audeat ad triplex plenum ſacramentum; & ſi is a retro Latrocinium emendavit, eat ad aquam (i. e. judicium aquæ). Archiepiſcopus habebit de forisfactura xl ſolidos in Merchenelga, et Epiſcopi xx ſolidos, & Comes xx ſolidos, & Baro x ſolidos, & Villanus xl denarios *.

XIX.

Qui fœminam vi compreſſerit, forisfacit membra ſua. Qui proſtraverit fœminam ad terram & ei vim inferat, mulcta ejus Domino eſt x ſolidi. Si vero eam compreſſerit, forisfacit membra.

XX.

Qui retinet denarium S. Petri, denarium reddat per juſtitiam S. Eccleſiæ & xxx denarios forisfacturæ. Et ſi de ea re eſt implacitatus per juſtitiam Regis, forisfaciat Epiſcopo xxx denarios, & Regi xl ſolidos.

* Some parts of this and the former law are obſcure.

XXI. Si

XXI.

Si quis alteri oculum effodiat infortunio, emendet lxx ſolidis ſolidorum Anglicanorum. Et ſi viſus ei reſtituatur, dimidium duntaxat reddatur.

XXV.

De Averio quod quis in manibus habet, qui velit poſtulare furto ſublatum, et ille vult dare vadios et invenire plegios ad proſequendum appellum ſuum, tunc incumbit illi qui rem habuerit in manibus nominare warrantum ſuum, ſi eum habuerit; et ſi non habuerit eum, nominabit ſuum vadem primarium, et teſtes ſuos, et habebit eos ad diem, et ad terminum, ſi eos habeant aut eos habere poterit. [All the reſt of this ſtatute is ſo obſcure, from the faults of the MS, or the obſolete terms, that I do not think it worth giving].

XXVI.

P. 244. De Murdro Francigenæ occiſi, & homines hundredi non prehendunt & ducunt ad juſtitiam infra viii dies ut oſtendat ob quam cauſam fecerit, reddant Murdri nomine xlvii Marcas.

XXX.

De tribus viis, videlicet Wetling-ſtreet, & Erming-ſtreet, & Foſſe. Qui in aliqua harum viarum hominem itinerantem ſive occiderit ſive inſilierit, is pacem Regis violat *.

XXXI.

P. 125. Si Latrocinium ſit inventum, in cujuſcunque terra ſit, et latro ſimul, Dominus terræ & Uxor ejus habebunt medietatem bonorum Latronis, & vendicatores eorum Catalla ſi illa invenerint, & alteram medietatem, ſi repertum ſit infra Sache & Soche, perdat Uxor, & Dominus habebit ‡.

* I do not underſtand why more in theſe roads than elſewhere: for all homicides or aſſaults were breaches of the king's peace.

I do not well underſtand the reaſon of the latter part of this ſtatute.

XXXV.

Si morti damnata ſit aut membrorum mutilationi fœmina impregnata, de ea non fiat juſtitia priuſquam partuerit.

XXXVII.

Si pater deprehenderit filiam in adulterio in domo ſua, ſeu in domo generi ſui, bene licebit ei occidere adulterum *.

XXXVIII.

Si quis ex neceſſitate alterum occiderit, aut, propter gubernationem facilierem, ego jecero res tuas de navi ob metum mortis, de hoc non potes me implacitare. Nam licet alteri damnum inferre ob mortis metum, quando periculum evadere non poteſt; & ſi de hoc me accuſes, quod ob metum mortis nihil feci † de hoc contemptu, & ea quæ in navi reſtant dividantur in communi ſecundum Catalla, & ſi quis jecerit Catalla extra navim abſque neceſſitate, ea reſtituat.

XXXIX.

Duo ſunt participes ejuſdem pacis, & unus eorum implacitatus abſque altero; ſi negligentia ſua perdit, non inde debet damnum cedere alteri, qui abſens fuit. Nam quod judicatum eſt inter eos non debet præjudicare iis qui abſentes fuerunt.

XLI.

Caute proſpiciant ii quibus cura incumbit judicia facere, & judicent uti petunt quando dicunt *dimitte nobis debita noſtra.* Et prohibemus ut homo Chriſtianum extra terram non vendat, nec præſertim in paganiſnum. Caveat homo quod quis animam ejus non perdat quam Deus vita ſua redemit. Qui injuriam elevaverit, aut falſum judicium hinc proferet aut odii aut avaritiæ gratia, ſit in forisfactura Regis de xl ſolidis; ſi non poteſt allegare quod plus recti facere noluerit, perdat libertatem

* Mr. Tyrrell, in commenting upon this ſtatute, expreſſes his ſurprize that it ſhould not have given to the huſband the power which it has given to the father. I preſume the huſband had it by the common or cuſtomary law, which William the Firſt did not abrogate, but made this addition to it for the better ſecuring of the chaſtity of the wives of his barons and military tenants, and of thoſe who held under them by knights ſervice, when the huſband ſhould attend him in foreign wars.

† In this paragraph, as printed here from Wilkins, the ſenſe is very imperfect. It may be a little mended by putting a full ſtop after contemptu, but will ſtill remain obſcure.

ſuam, niſi juxta beneplacitum Regis illam ab eo redimere queat. Et ſi ſit in Danelega, ſit Forisfactura de Lahſute; ſi allegare non poteſt quod melius facere non voluerit & quod rectam legem & rectum judicium recuſaverit, ſit forisfactura erga illum ad quem jus hoc pertinuerit; hoc eſt, ſi ſit erga Regem, vi libræ; ſi ſit erga Comitem, xl ſolidi; ſi ſit in Hundredo, xxx ſolidi, & erga omnes eos qui Curiam habent in Anglia, hoc eſt, juxta ſolidos Anglicanos. In Danelega qui rectum judicium recuſaverit, ſit is in miſericordia de ſuo Lahſute, nec bene faciat querelam Regi de hoc quod quis ei defecerit in Hundredo aut in Comitatu*.

XLV.

Et qui retatus eſt, et teſtibus convictus de [a]*rebellione*, et implacitatus tribus vicibus vitavit, et ad quartam vicem oſtendat ſummonitor tria ejus crimina, nihilominus mandetur homini ut plegium inveniat, et veniat ad jus; et ſi nolit, ſi non viderit hominem vivum aut mortuum, capiat quantum habet et reddat petenti catallum ſuum, & Dominus habeat medietatem reſidui, et hundredum medietatem. Et ſi nullus parens aut amicus iſtam juſticiam deforciaverint, forisfaciant erga regem vii libras. Et querat latro quicquid poterit invenire, non habeat warrantum de vita ſua, nec per prohibitum placitum poterit aliquid recuperare.

[a] *deleauté* in the French.

Q. *deforciaverit.*

XLVIII.

P. 227. Et qui Latroni occurrerit, et ſine clamore eum permiſerit abire, emendet juxta valorem Latronis, aut ſe purget plena lege quod illum Latronem eſſe neſcivit: et qui clamorem audierit & ſuperſederit, ſuperſeſſione Regis emendet aut ſeipſum purget.

L.

Si quis infra Hundredum incuſatus fuerit, iv homines eum retineant, ſe duodecima manu purget, & ſi aufugerit pendente accuſatione, dominus reddat Weram ſuam, & ſi dominus incuſetur quod per eum abire permittitur, ſe purget ſexta manu, et ſi non poſſet, emendet verſus Regem, & ſit utlagatus.

* The ſenſe of this and the following ſtatute ſeems to be greatly corrupted in ſeveral parts.

LIII.

Volumus autem & firmiter præcipimus, ut omnes homines, quos nobiſcum adduximus aut poſt nos venerint, ſint ſub protectione & in pace noſtra per univerſum regnum prædictum, & ſiquis de illis occiſus fuerit, Dominus ejus habeat intra v dies homicidam ejus ſi poterit; ſin autem *, incipiat perſolvere nobis xlvi marcas argenti quamdiu ſubſtantia Domini illius perduraverit. Ubi vero ſubſtantia Domini defecerit, totus hundredus in quo occiſio facta eſt communiter ſolvat quod remanet †.

V. Cart. Regis Willielmi Conqueſtoris de quibuſdam ſtatutis. Wilk. p. 228.

The following ſtatute was by miſtake not inſerted among the civil laws of William the Conqueror, given in the Appendix to the firſt volume.

XXXVI.

Si quis inteſtatus obierit, liberi ejus hæreditatem æqualiter dividant.

This appears to have been changed by the prevalence of feudal principles over the old Engliſh cuſtoms in the time of Henry the Second. For military fiefs became impartible, and, with regard to chattels, Glanville ſays, "Cum quis vero inteſtatus deceſſerit, omnia catalla "ſua ſui domini eſſe intelliguntur; ſi vero plures habuerit dominos, qui-"libet illorum catalla ſua recuperabit quæ in feodo ſuo reperiet." L. vii. c. 16.

* Something ſeems to be wanting here.

† This and ſome other ſtatutes of this king were extraordinary precautions taken to prevent the murdering of foreigners whom he had brought over with him, or who came, upon his encouragement, to ſettle in England under his protection.

NOTES

To be added to thoſe on the Fourth Book of this Hiſtory, having occurred to me ſince the printing thereof.

P. 24. *BEDE before him had ſaid, that a colony out of Ireland,* the proper country of the Scots, *had come into Britain, under the conduct of Rheuda, from whom they were called Dalreudini.*

By reading a book lately publiſhed on * Britiſh and Iriſh Antiquities by Mr. Macpherſon; I am induced to conſider the authority of Bede on this matter as more doubtful than I had thought it before, and to affirm nothing with certainty concerning the migration of Iriſh Scots into Britain.

* See Introduction to the Hiſtory of Great Britain and Ireland, by James Macpherſon, Eſq.

The *Irſt* or Britiſh language ſpoken in the Scotch Highlands and ſome of the Scotch Weſtern Iſles, gives that very ingenious gentleman, by whom it is well underſtood, a great advantage on theſe ſubjects over all other criticks who only underſtand Greek and Latin, in which he is alſo well ſkilled. I therefore leave the whole controverſy about this dark part of the Scotch and Iriſh antiquities to thoſe of the two nations who are maſters of the language that was common to both. Nor do I pretend to decide, whether the *Picts* were a race of old unconquered Britons remaining in Caledonia, or retiring into the eaſtern parts of that country from other ſouthern diſtricts, and retaining there the antient cuſtom of painting their bodies, when the more civilized Britons had left it off, or were a different people, as is ſuppoſed by Bede and many good modern writers.

That

That the Caledonians were eſteemed the braveſt people in Britain, at the time when Tacitus wrote, his teſtimony proves: but whether they were (as that ſagacious hiſtorian conjectures) a colony of Germans, or a diviſion of thoſe Gauls who firſt inhabited this iſle, it is hard to determine. They might come from ſome part of the ſea-coaſt of Germany, and yet ſpeak the Gallic language: for Cæſar tells us, that, in antient times, many colonies went out of Gaul into Germany; and Monſieur Pelloutier, who has written an excellent treatiſe on the migrations and manners of the antient Celts, finds many Celtic words in the German or Teutonic, which language he well underſtood. That the northern coaſts of Ireland were firſt peopled from Caledonia can hardly be doubted.

P. 82. *Having thus ſecured all behind him, he ſailed from Milford Haven, with his army, to Ireland, and after a proſperous voyage landed near Waterford, on the feaſt of St. Luke, in the year eleven hundred and ſeventy-one.*

Since the printing of this book, an Iriſh record, of the fourth of Edward the Second, has been communicated to me, in which it is ſet forth that a particular family of the Oſtmen of Waterford, deſcended from a chief named Gerald *Macgillemory, having claimed a right to be governed by the Engliſh laws, derived to them from a charter granted to their anceſtors by King Henry the Second, an inquiſition was ordered, and it was found by a jury, that, on Henry's approach to Waterford, Reginald Macgillemory, an Oſtman of great power in that county, and who had lands on the coaſt adjoining to the city, drew three chains acroſs the harbour, to ſtop the king and his fleet from entering into it: but the ſhips broke the chains, and the king, as ſoon as he landed, apprehended this Reginald and all his adherents, tried them in his own court, and condemned them to be hanged as *rebels* againſt him, which ſentence was immediately executed upon

Anno 4 Edw. II. Inter placita Coronæ in Turr. Bermingham.

* Macgillemory is evidently an Iriſh name, and how it came to be given to an Oſtman I cannot tell.

them. The ſame jury likewiſe found, that he expelled from the city all the Oſtmen, except one of the family of Maegillemory, whoſe Chriſtian name was Gerald, and who, becauſe he had been always faithful to the Engliſh, was ſuffered to remain in a tower which belonged to him there, with all his family, and afterwards got from the King the charter abovementioned.

It is, in itſelf, extremely incredible, that, when Waterford was poſſeſſed by a ſtrong Engliſh garriſon of the earl of Pembroke's troops, an Oſtman chief, who had lands adjacent to that city, ſhould be mad enough to do an act of this nature, which, if he had ſucceeded in hindering the fleet from coming into the harbour, or if any ſhips had been ſunk or endamaged in running againſt the chains, muſt have inſtantly drawn upon him the vengeance of thoſe troops, and, ſoon afterwards, of all Henry's numerous forces, which he could not have prevented from landing at Wexford. Nor can I conceive that ſuch an extraordinary attempt, if it really had been made, or the very remarkable puniſhment of it, would not have been mentioned by Giraldus Cambrenſis, or the Abbot of Peterborough, or Roger de Hoveden, or William of Newbury, or any one of the Engliſh contemporary hiſtorians, or Iriſh Annaliſts of that age! But a ſtill better proof of the falſhood of it is, that the jury ſpeak of *a ſecond coming of King Henry into Ireland*, ſaying, that Gerald Macgillemory defended his tower in the city of Waterford *uſque ad iteratum adventum prædicti Dom. Henrici Regis in Hiberniam.* And they ſuppoſe a conſiderable diſtance of time to have intervened between his expulſion of the Oſtmen out of Waterford, and his return into Ireland, during which a war happened between thoſe ſo expelled, and ſome Engliſh of his train *(de comitiva ſua)* to whom he had given their tenements in that city. *Et duravit guerra et diſſenſio illa per magna tempus.* Whereas, it is certain that he came but once into Ireland, and all hiſtorians agree, that, during his ſtay in that realm, all was quiet in thoſe parts which had ſubmitted to him. It is poſſible that the Gerald Macgillemory here mentioned may have merited a diſtinction from the reſt of the Oſtmen, by not engaging in the maſſacre of the Engliſh at Waterford, which

happened in the year 1173 or 1174, as Giraldus Cambrenſis atteſts; and that on this fact, ill related to an ignorant jury by ſome of his deſcendants, the abſurd fictions contained in this record were grounded. The only matter of importance, relating to the acts of king Henry the Second in Ireland, which it really proves, is this, that by a charter from him the Oſtmen of Waterford obtained a right to be under the law of England in Ireland. For a charter of Edward the Firſt is recited therein, which ſays, "Quia per inſpectionem Cartæ D. Henrici Regis filii Im-
"peratricis, quondam Domini Hiberniæ, proavi noſtri, nobis conſtat,
"quod Oſtmanni noſtri de Waterford legem Anglicorum in Hiberniâ
"habere, et ſecundum ipſam legem deduci et judiciari debent, vobis
"madamus, &c.

V. Hibern. Expugn. l. ii. c. 4.

P. 104. *It only appears, that, in the courſe of the year eleven hundred and ſeventy two, Adam de Port being arraigned of traiterouſly conſpiring the death of the king, fled out of the realm before a trial, and was outlawed.*

We learn from a record of the year of our Lord 1180 (the 26th of the reign of King Henry the Second) that this Adam de Port payed a thouſand marks to the king, as a fine for his own land and his wife's inheritance in Normandy, and to induce the king to pardon him and receive his homage. The words of the record are theſe,

Adam de Port reddit compotum de mille marcis, pro fine terræ ſuæ et hæreditatis uxoris ſuæ in Normaniâ, et ut Rex indignationem ſuam ei remittat, et homagium ſuum ſuſcipiat.

Ex Magno Rotulo Pipæ de Anno 26 Hen. II. Rot. 10. a. Sudhantefcira.

From the heavy fine he payed we may reaſonably infer, that his pardon was not owing to any proof of his innocence, but was obtained by the merit of ſome diſcoveries he had made about this time. They muſt have been of great moment, to render him worthy of ſuch a grace from Henry after ſuch an offence againſt him!

P. 232. *It therefore appears that this jury were not properly judges but witneſſes of the fact they were called to determine.*

It is eaſier to ſee the neceſſity of a jury's being *unanimous*, when ſummoned, not as judges, but as witneſſes of a fact, than when they are appointed to judge and determine upon evidence given by others.

P. 237.

P. 237. *And Glanville, ſpeaks of the jury employed in this inqueſt, as making others for the crown,* &c.

Among the records tranſcribed in the Appendix to this book from the Hiſtory of the Exchequer, concerning pleas in the reign of Henry the Second, before the itinerant juſtices, frequent mention is made of *juratores comitatus, et minuti homines comitatus.* They are ſometimes named together. For inſtance, it is ſaid, *Et idem Vicecomes reddidit compotum de* xl s. *de placitis G. de Clint. de juratoribus et minutis hominibus comitatus.*

NOTES

NOTES
TO THE
FIFTH BOOK
OF THE
Life of King Henry the Second.

P. 259. *ON the deceaſe of Duke Robert, in the year one thouſand and eighty five, Roger, his ſon by a daughter of the prince of Salerno, ſucceeded to him in all his Italian dominions; and the count of Sicily, Robert's brother, ruled over that iſland, as an independant ſtate.*

By an appointment which Duke Robert had made in the year 1081, when he went to make war againſt the Greek emperor, Alexius Comnenus, he gave to his ſon the ſovereignty of Sicily, together with his Italian dominions; but that part of the grant did not take effect upon his death; the count of Sicily not receiving any inveſtiture from his nephew, as he had done from his brother, nor paying him any homage for that iſland. It is doubtful in what manner this alteration was made, whether by Robert's laſt will, or by a voluntary ceſſion of the ſovereignty to the count, which his nephew might reaſonably be induced to make, in order to gain his aſſiſtance, at this juncture of time, againſt the pretenſions of Boamond to the dutchies of Apulia and Calabria with all their dependencies.

P. 268. *His ſiſter Baſilea, who attended upon him at the time of his death, ſent immediate notice of it as ſecretly as ſhe could, to Raymond Fitzgerald, her huſband,* &c.

Giraldus Cambrenſis ſays, ſhe made uſe of this expreſſion in her letter about it. I notify to you, my dear, *that my great eye-tooth, which has long been aching, is now fallen,* and that he *gueſſed* ſhe meant her father was dead. But it is more probable, as the earl had long been ill, that this was a cypher agreed upon between them, in caſe of his death while her huſband was abſent.

P. 269. *The cauſe of this was a fixed opinion in the Iriſh, that walled towns and forts were dangerous to their freedom, and that to them it would always be more advantageous to deſtroy than poſſeſs them.*

See Camden in Ireland.

This notion prevailed ſo long among them, that Con O'Neale, whom King Henry the Eighth created earl of Tirone, curſed all his poſterity who ſhould build any houſes, ſaying, *that by building they would do but as the crow doth, make her neſt, to be beaten out by the hawke.* The word *houſes* here meant houſes of brick or ſtone, ſuch as the Engliſh built in Ireland, which were generally caſtles, or edifices in walled towns; whereas the Iriſh dwelt in huts, readily raiſed or pulled down, like the antient Britons and Germans.

P. 278. *And the earl (of Flanders) who intended to ſet out for Paleſtine on the next Chriſtmas day, was ſtopt by a meſſage which the archbiſhop of Canterbury and the biſhop of Ely brought him from Henry, deſiring him to put off his journey to the Holy Land till the feſtival of Eaſter enſuing, when that king propoſed to accompany him thither,* &c.

V. Benedict. Abb. t. i. p. 143. ad ann. 1176.

The abbot of Peterborough ſays, that the reaſon of Henry's deſiring this delay, was an intimation given to him, that the intention of the earl in going to Jeruſalem, was to get that realm for himſelf; (*ut ibidem in regem ſublimaretur*) which he hoped to prevent by accompanying him thither, at the term propoſed, or ſending a force to defend the king, his relation. But it does not appear from any other evidence that this ſuſpicion was well founded, and better reaſons may be found for Henry's

being deſirous, that if he ſhould go to the Holy War, this year, the earl might go with him.

P. 283. *To oppoſe Aſedoddin the general of Noureddin*, &c.

This man (as the Arabian writers inform us) was born in Curdiſtan, a mountainous part of Aſſyria, from whence he went to ſerve at Bagdat under the emir of that city, and there acquired, by extraordinary actions of valour, the ſurname of *Schirgouch*, that is, *Lion of the Mountain*, corruptly written *Syracon* by the Latin authors of that age: but having the misfortune to kill a man in a quarrel he fled from Bagdat to Moſul, and obtaining a command in the army of Omadeddin Zenghi, was, after the death of that ſultan, advanced to the head of it by the ſon of Zenghi, Noureddin.

See Herbert Dictionaire Orientale Art. Adhed Ledinellah. Ainb Ben Schaddi. Abulfeda. Vit. Saladini Autore Bohadino F. Sjeddi. p. 1.

P. 289, 290. *He certainly had in view ſome military operations in the kingdom of France: for, ſoon after the meeting of the ordinary council at Eaſter, a parliament was aſſembled, firſt at Ely, and then at Windſor, to the laſt of which places came all the earls and barons, and almoſt all the tenants of the king by military ſervice*, with their horſes and arms, prepared to go wherever he ſhould command them, *as I find it expreſſed by contemporary authors.*

The Abbot of Peterborough, in mentioning a former ſummons of this year, uſes the following words; "Præterea, ibidem, per conſilium familia-
"rium ſuorum, mandavit omnibus comitibus, & baronibus, et mili-
"tibus regni qui de eo in capite tenebant, quod, omni occaſione remotâ
"eſſent bene parati equis et armis apud Lundonias in Octavis Clauſi
"Paſchæ, ſecuturi eum inde in Normanniam, *et moraturi ſecum per unum*
"*annum in partibus tranſmarinis, ad cuſtamentum eorum in ſervitio ſuo.*"

V. Benedict. Abb. t. i. p. 170, 171.

If this could be depended upon as true, it would prove that the king enjoyed at this time, or endeavoured to uſurp, a very extraordinary prerogative, that of ordering all his barons and military tenants in chief to ſerve him abroad *one whole year at their own charge*. But the teſtimony of one monk is not ſufficient to eſtabliſh a fact of this nature, contrary to all the known rules of the Engliſh feudal law, which limited the ſervice of military vaſſals *to forty days at their own expence*. Even Hoveden, who commonly tranſcribes this hiſtorian word for word

in his Annals, does not copy him here; but quite omits the mention of ſo ſtrange a ſummons, which one cannot ſuppoſe that either he, or the other writers of that age, would have taken no notice of, if it really had been ſent. There is nothing incredible in the king's having notified to his vaſſals by baronial or knight's ſervice, that he propoſed to keep them a year, abroad, in his ſervice: for they often ſtayed beyond the term of forty days; but then it was *at his coſt.* What this hiſtorian adds, may be alſo very true, "Et præcepit, ut unuſquiſque, ſtatim viſis li-"teris ſuis, mandaſſet ei per nuntium ſuum, et per literas ſuas, quo-"modo venire poterit, et cum quot militibus tunc, *ſine magno gra-*"*vamine.*" For though they were bound by their tenures to ſerve him abroad, on his ſummons, with a certain number of their tenants who held of them by knights ſervice, yet it was not agreeable to the lenity of his government, to exact it of them grievouſly, that is, beyond what their means could eaſily enable them to bear.

P. 292. *It chanced that Cardinal Vivian, Pope Alexander's legate into Scotland and Ireland, was lately arrived at Down-Patrick,* &c.

The abbot of Peterborough informs us, that the king and biſhops of Scotland had ſecretly deſired, that a legate might be ſent to determine the controverſy about the ſubjection of their church to the Engliſh. But Vivian, whom the pope had accordingly commiſſioned to go into Scotland, having landed in England without leave from Henry, that prince ordered the biſhops of Wincheſter and Ely to ſtop him at Northampton, if he did not take an oath, that he would not do any thing in his legation which might be to the prejudice of the king or kingdom, and with this demand he complied. I would obſerve hereupon, that this was not a new or extraordinary caution, upon the preſent occaſion, but an exerciſe of one of thoſe ancient prerogatives and rights of the crown, which Henry had always maintained. However, the oath impoſed upon the legate had this good effect, that, if he really was empowered (which I think ſomewhat doubtfull) to take cognizance of the controverſy between the two churches without Henry's permiſſion, it ſtopped him from proceeding; for nothing was done on that matter while he was in Scotland.

I would

I would further remark, that, if any proof were neceſſary to ſhew, that the expreſſion made uſe of by Peter de Blois, in his letter to Pope Alexander the Third, written in Henry's name, and of which I have taken particular notice in a former part of this volume, was unauthorized by that king, this would abundantly prove it. For a vaſſal of the ſee of Rome, acknowledging himſelf ſuch, could not poſſibly have maintained a royal prerogative ſo inconſiſtent with that ſtate. He could not have aſked a legate ſent from his lord, (as the Abbot of Peterborough ſays he did) *by whoſe leave he came into his realm?* nor would he have dared to forbid him to proceed on his journey through that realm into Scotland, unleſs he would give the ſecurity abovementioned: much leſs would the legate have ſubmitted to give it, as he did, very quietly. This whole tranſaction and another of a ſimilar nature in the year 1178 undeniably indicate an entire independance of Henry on the pope, with reſpect to his regal dignities, and as great a jealouſy in him, as in any of his predeceſſors, leſt thoſe dignities ſhould be hurt by any miniſters of the pope coming into his kingdom, or even paſſing through it, on any pretence whatſoever, without his leave.

See the fourth book vol. iii. p. 115, 116. and note p. 285, 286. See alſo Appendix p. 301.

T. i. ut ſupra.

See p. 319, 320 of vol. iii.

P. 304. *It is only ſaid, that the anſwer diſpleaſing him greatly, he ſummoned thereupon all the biſhops of England to meet the barons and military tenants in chief, who were to attend him in arms at Wincheſter, and by their joint advice delayed,* &c.

The words of Benedict abbot of Peterborough are theſe, "Quod "cum audiſſet, nec ſibi in aliquo placuiſſet, mandavit archiepiſcopo "Cantuarienſi et epiſcopis regni, quod in Octabis Sancti Johannis Bap"tiſtæ eſſent ad eum apud Wintoniam; et ita factum eſt. Venerunt "enim illuc ad eum *comites et barones et milites Regni ſui*, per ſum"monitionem, paratis armis et equis ſecum transfretare in Normanniam. "Venitque illuc ad eum Willelmus Rex Scotiæ. Congregatis itaque om"nibus in urbe Wintoniæ Rex *per concilium eorum* transfretationem "ſuam diſtulit, &c."

T. i. p. 226, 227.

From hence one might think that the biſhops, earls, barons, and military tenants compoſed a parliament.

But the ſame author deſcribing the parliament held at Northampton; which made laws and confirmed the ſtatutes of Clarendon, ſays, "Ve-

T. i. p. 130.

"nit

" nit D. Rex uſque Northamptune, et magnum ibi celebravit con cilium " de ſtatutis Regni ſui, *coram epiſcopis, et comitibus et baronibus terræ* " *ſuæ*," which deſcription would make the members of that aſſembly only biſhops, earls, and barons, if he did not afterwards add theſe words,

T. i. p. 130. " *et per concilium comitum, et baronum et militum, et hominum ſuorum* " *hanc ſubſcriptam aſſiſam fecit.*" Here to the ſpiritual and temporal barons are added, not only the military tenants, but alſo all the others who held in any manner of the king, " *et hominum ſuo-* " *rum.*" I would likewiſe obſerve, that, in the aſſembly at Winchester beforementioned, thoſe who held of the barons by military tenures muſt be underſtood as comprehended among the *milites regni*, becauſe the barons never ſerved without others under them, which ſubvaſſals compoſed the body of the army; and becauſe the ſame author tells us, a little before, that almoſt the whole ſhipping of England and Normandy was gathered together at Portſmouth and Southampton, to

T. i. p. 212. carry theſe forces into France. *Ferè enim omnes naves portuum maris Angliæ et Normanniæ, per mandatum Regis, convenerunt apud Porteſmutham et Suthamptoniam ad milites iſtos transfretandos in Normanniam cum ipſo rege.* Yet I think this aſſembly was not a full parliament, becauſe nothing was there done to bind the whole nation or community of the kingdom. But in that of Northampton where laws were made and confirmed, it may be preſumed all the orders wherein the legiſlative power reſided were in ſome manner preſent. The paſſage abovecited mentions indeed only tenants in chief of the king; but it can no more be proved from thence that no others were preſent, than from the paſſages which name only biſhops, earls, and barons, as compoſing great councils, that the inferior tenants in chief of the king had no place therein. I have ſhewn in former notes what evidence we have of a right in *all the freemen* to concur in making laws and other acts which concerned the whole body of the people, which the reader will weigh againſt the inferences drawn from ſuch deſcriptions as this of the parliament of Northampton, given by writers of thoſe times, on whoſe accuracy it is plain one cannot rely.

P. 304. *They were alſo to aſk the royal city of Bourges, with all its appurtenances, promiſed by Louis to Richard, duke of Aquitaine, as a portion for that king's other daughter, Adelais, whom the duke was to marry.*

I follow Mr. Carte in calling this lady *Adelais* as the modern uſage for *Adela*, which is the name given to her by contemporary authors. Some of that age call her alſo *Aleſia* or *Alicia*, and others *Aelais*.

P. 315. *A contemporary writer ſays, "there was in all theſe three princes "the ſame deſire to excell in arms, which art was taught by theſe pre-"ludes."*

Benedict. Abb. t. i. p. 266.

Another writer of that age (William of Newbury) tells us, that Richard revived the practice of tournaments in his kingdom of England, after he was redeemed from his captivity, to put his Engliſh cavalry, by means of theſe exerciſes, on an equal foot with the French. The words are remarkable, and worth tranſcribing here: "*Conſiderans igitur illuſtris Rex Ri-*"*cardus Gallos in conflictibus tanto eſſe acriores quanto inſtructiores, ſui*"*que regni milites in propriis finibus exerceri voluit, ut ex bellorum*"*ſolemni præludio verorum addiſcerent artem uſumque bellorum, nec inſul-*"*tarent Galli Anglis militibus, tanquam rudibus et minus gnaris.*"

Neubrigenſ. l. v. c. 4.

Tournaments therefore were not (as ſome modern writers ſuppoſe) romantic inſtitutions of barbarous times; but were of ſingular uſe to inſtruct the nobility and gentry, who formed the cavalry of thoſe days, in the dextrous management of their horſes and arms. Indeed, all nations deſirous to excell in war, have endeavoured to render their public diverſions conducive to that purpoſe; a policy which ſeems to be too much forgotten at this time in this kingdom.

P. 336. *This eſtabliſhed the fame of St. Thomas of Canterbury, and greatly encreaſed the ſuperſtitious reſort of pilgrims to his tomb.*

Some of the monks who wrote the hiſtory of thoſe times, in order to ſecure more effectually to Becket the honour of this cure, tell us, "that "he appeared to the king of France in his ſleep, and promiſed him in the

Benedict. Abb. Bromton ad ann. 1179.

" the name of our Lord Jeſus Chriſt, that, if he would go to the tomb " of *the martyr of Canterbury*, his ſon ſhould recover his health: that " the king was perſuaded by his counſellors to pay no regard to this " dream; but, twice the next night, Becket again appeared to him, " and the laſt time added threats, if he did not ſpeedily obey the orders " of God. Whereupon, looking more attentively at the bearer of this " command, he ſaw that it was the bleſſed martyr himſelf, and there- " fore went to the tomb." By ſuch fables the whole fabrick of Saint-worſhip and idolatry in the church of Rome is ſupported. Diceto declares the purpoſe of the pilgrimage of Louis to have been, not that he might obtain the recovery of his ſon, but that, *by the merits and interceſſions of Becket* he might be rendered worthy to paſs from a temporal to an everlaſting kingdom; *ut in ejus meritis et interceſſionibus à regno mutabili tranſire mereatur ad regnum ſine fine manſurum:* which is directly putting Becket in the place of Chriſt. And Chriſt himſelf was deſired, in one of the authoriſed Popiſh Liturgies, to ſave the ſouls of the ſupplicants, not by his own blood, but by Becket's:

Col. 604.

V. Horæ beatiſſimæ Mariæ ſecundum uſum Sarum, Pariſiis, per Nicolaum Hocqueman, A.D. 1519. And Biſhop Jewel's Defence of the Apology of the church of England, part ii. c. 18.

Tu per Thomæ ſanguinem
quem pro te impendit,
Fac nos, Chriſte, ſcandere
quo Thomas aſcendit.

What the public opinion was of the greater benefit of oblations to this wonder-working ſaint, than of thoſe made to Chriſt, appears from the leger books at Chriſt church in Canterbury, where in one year the offerings at the three principal altars ſtood thus,

At Chriſt's altar,	—	—	3	25	6
At Becket's,	—	—	832	12	3
At the Virgin's,	—	—	63	58	6
And the next year,					
At Chriſt's altar,	—	—	0	0	0
At Becket's	——	—	954	6	3
At the Virgin's,	—	—	4	1	8

Indeed

Indeed, the greateſt wonder is, not that Chriſt ſhould have nothing or next to nothing offered to him, when Becket had ſo much, but that the offerings to the Saint ſhould exceed thoſe of the Virgin in the proportion here ſtated.

P. 336, 337. *The young king Henry was preſent, and Philip being oppreſt under the weight of his crown, from the tenderneſs of his age and a weakneſs occaſioned by his late fit of ſickneſs, Henry helped to ſuſtain it.*

Some hiſtorians ſay that he walked before Philip to the cathedral church of Rheims, carrying in his hand the crown of gold with which that prince was to be crowned. And Hoveden adds, that he did this in right of the duchy of Normandy. But it could only have been as heir to that duchy; for not he, but his father, was then in poſſeſſion of it. And Diceto affirms that he came to this ceremony only as a brother in law to Philip. *Henricus Rex Regis Angliæ filius, et Philippi Regis Francorum ſororius, regiæ coronationi Remis interfuit ſolius affinitatis incitatus et invitatus intuitu.* The ſame author adds, that to be the more ready in aſſiſting Philip to bear the weight of the crown, he pulled off his upper robe; *rejectâ clamide paratior ad obſequium.* But he labours to prove, that nothing done by him upon this occaſion imported any ſubjection or inferiority of the Engliſh to the French crown; and, to ſhew how ancient the independence of the former was, quotes a letter from Charlemagne, in which he, as king of France, ſtyles Offa, king of Mercia and chief of the Saxon Heptarchy, *his deareſt brother.* Nevertheleſs it is probable, that, although Henry might come to this coronation out of regard and affection to his brother in law, yet being there he performed the uſual ſervices of his charge as great ſeneſchall of France, or ſuch as belonged to thoſe fiefs which he actually held, or expected to inherit. Nor did theſe in reality (however they might in appearance) impeach the independence of the crown of England. Yet, for fear of miſconſtructions, he would have acted more wiſely, in avoiding, as his father did, to be preſent at this act.

Benedict. Abb. Bromton. Hoveden, ad ann. 1179. Hoveden, ad eundem ann.

Col. 608, apud Decem Scriptores.

P. 342. *The chief cauſe of this thunderbolt's falling on that prince, was his having withdrawn his perſon and troops from the imperial army, in the year* 1175, *when the emperor was ſuſtaining a dangerous war againſt the people of Milan and other rebellious Lombards.*

Chron. Com. Schaw. apud Meibom. i. 1. Hiſt. d'Allemagne, par le P. Barre, ad ann. 1175.

Some writers ſay, that the emperor, as ſoon as he was informed of the Duke of Saxony's having left the imperial camp, put himſelf at the head of a part of the garriſon of the city of Pavia, where he then was, forced his way through the Lombards who were beſieging it, and came up with the duke on the banks of the lake of Como; that he threw himſelf at his feet, and conjured him to return, but the duke did not even deign to raiſe him up; and that the empreſs, who was preſent, ſayed to her huſband, "Sir, riſe, and remember what has now happened to you; and "may God remember it too!"

But it is incredible that the empreſs ſhould have accompanied her huſband in this expedition, when he was to fight his way through the enemy; and extremely improbable that the emperor, whoſe ſpirit was equal to the majeſty of his rank, ſhould have thrown himſelf at the feet of one of his vaſſals, or that the duke, if he had, ſhould not have raiſed him up. I make no doubt this tale was invented to juſtify the proſcription of the duke, after he had been put under the ban of the empire.

P. 350. *He alſo gave to the duke a princely maintenance, and ſupported his whole family with vaſt expence to himſelf.*

The Norman Chronicle of Robert de Monte ſays, he gave them an allowance of three hundred and fifty pounds a day in Angevin money. But this makes ſo great a ſum, according to the value of ſilver in thoſe times, that I apprehend the account is not exact. (See note to the Firſt Book, p. 468, 469, 470.)

See Maddox, Hiſt. of the Exchequer, c. x. p. 252.

Yet that they were maintained in a very bountiful manner appears from an entry in the great Roll of the 31ſt year of H. II. which ſhews that the duke alone received for his expences from Wincheſter to London three pounds eighteen ſhillings in the money of thoſe days, a ſum nearly equivalent to what an allowance of ſixty pounds ſterling, for the charges of ſuch a journey, would be in the preſent times.

P. 364,

P. 364, 365. *It is no wonder, that, as theſe opinions were known, John of Saliſbury, who thought very highly of the ſanctity of a monaſtical life, and who hated this prelate for his diſlike of Becket, ſhould ſpeak with ſuch acrimony of him as he does in ſome of his letters, and charge him with the moſt atrocious crimes.*

In one which he wrote to the archbiſhop of Sens, he ſays that this prelate (the archbiſhop of York) had cauſed a man, named Walter, who, when a boy, had been his catamite, and repenting of it afterwards complained of what he had ſuffered, to be deprived of his eyes, and, as he continued to upbraid him with his guilt, got him hanged by corrupting the ſecular judges. To ſupport this, he (John of Saliſbury) alledges the report of many perſons of great rank and credit, made to him. "But "perhaps (ſays he) it may be aſked how it happened that this offender "was not puniſhed for ſo great and manifeſt a crime, eſpecially as the "bleſſed Eugenius the third then adminiſtered the pontificate? *And "indeed I am confident that he would not have eſcaped, without the "induſtry of the bleſſed Thomas* (meaning Thomas Becket) *who obtained, "by the help of the venerable Hilary biſhop of Chicheſter, that his purga-"tion ſhould be accepted by Theobald, archbiſhop of Canterbury, of pious "memory.*"

V. Epiſt. S. T. edit. Bruxells, T. ii. l. 5. Epiſt. 91.

It is ſtrange that John of Saliſbury ſhould not have perceived, that *the induſtry of the bleſſed Thomas*, in ſaving one accuſed of ſuch enormous wickedneſs, either ſhewed that he was perfectly convinced of their innocence, and that the biſhops of Chicheſter and Wincheſter were ſo too, or that they were all as bad as he. I am unwilling to ſuppoſe the latter, and therefore aſcribe this foul charge to the hatred and malice of John againſt the archbiſhop, rather than to any truth in the report. If the contrary be ſuppoſed (as ſome may think it ſhould on the evidence of this letter) what a dreadful picture does it give of the clergy in thoſe days! John of Saliſbury adds, that the criminal prelate, going afterwards to Rome, where they were not well ſatisfied with the manner of his abſolution in England, applied himſelf to Gregory cardinal of St. Angelo, a moſt infamous negotiator in ſuch affairs, and employing him to diſtribute many bribes in that court, by means of this corruption returned

home juſtified. The reader may ſee an extract of ſo much of this epiſtle as relates to this matter in the appendix to this book.

P. 373. *He therefore aſſembled, as ſpeedily as he could, an army of his vaſſals, with which he marched to aid Richard, and force all the three brothers to put an end to the horrors of ſo direful and ſo abominable a war.*

This and ſeveral other facts contradict an imputation thrown out againſt Henry, by one or two antient writers and many of the moderns, as if he had ſought, from motives of policy, to excite and foment diſcord, and civil war itſelf, among his ſons, that they might not unite againſt him. It is likewiſe ſaid that this conduct was adviſed by his ſon-in-law, the duke of Saxony: but it would have been moſt imprudent in a fugitive prince, thus to make himſelf an incendiary in the place of his refuge, and raiſe diſſenſions among the brothers of his wife, on whom his children might afterwards come to depend (as they actually did) for aſſiſtance: nor do any of the beſt contemporary writers aſcribe to him this advice, or ſuppoſe that Henry acted on ſo deteſtable a plan.

P. 379. *This was notified to young Henry by a letter from the primate, which is extant among thoſe of Peter de Blois, whoſe pen he employed in this buſineſs.*

Hiſt. of England, vol. i. p. 308.

Mr. Hume cites this letter, as written in the year 1173, to prove that there were Brabanters then in the ſervice of King Henry's enemies, as well as in his. But the letter itſelf plainly ſhews, that it could not have been written then, and muſt be dated at this time. For the biſhops had not *then* been ſureties for young Henry to the king his father; of which guarantee a particular notice is taken in this letter. "*Ubi eſt interceſſio* "*illa, quâ nos et alios Epiſcopos patri tuo pro te fidejuſſionis vinculo obli-* "*gaſti?*" and it would have been abſurd for the writer of it to blame that prince for making himſelf *a captain of Brabanters*, when his father, in whoſe favour this letter was written, was at the head of an army of the ſame troops. Nor were theſe mercenaries *then* excommunicated, as they are here ſaid to be. "*Et unde hoc tibi, quod Brabantionum factus es* "*ductor,*

V. Petri Bleſenſis epiſt. 47.

" *ductor, gentique excommunicatæ et perditissimæ adhæsisti, ut perderes devo-*
" *tissimam tibi gentem.*" But, at this time, they did lie under the sentence of excommunication, past upon them, in the year eleven hundred and seventy nine, by the Lateran council; and Henry, the son, had an army of them in his pay, but Henry, the father, had none.

P. 384. *When this was delivered to that prince, he kissed it, and entreated the prelate to return to his father, and carry to him his last request*, &c.

Hoveden adds, that he gave *his cross* to his favourite, William Mareschal, that this lord might carry it to Jerusalem, " Et tradidit Wil-
" lielmo Marischallo familiari suo crucem suam, Hierosolimam deferen-
" dam." But, though he had vowed to take the cross, it does not appear that he yet had taken it; and this circumstance is mentioned by no other writer of those times. Perhaps he may have usually worn in his bosom a cross of gold or silver, and have given that to William Mareschal, to be carried to Jerusalem, in memory of the vow he did not live to accomplish.

Ann. pars 2. ad ann. 1183.

P. 401. *Presently after this election, information being given by one of the bishops, that Baldwin had held a private conference with them, concerning the reformation of the state of the church, and had promised to assist them in endeavouring to effect it, and likewise* to repair its shattered liberties, *Henry called them before him*, &c.

The words of Gervase are, " Voluntariè tamen victus Episcopus ex-
" posuit causam, et episcoporum revelavit secretum, *quod ecclesiæ Dei,*
" *una cum archiepiscopo suo, constanter vellent libertates resarcire dissi-*
" *patas.*"

From hence it appears, as well as from other proofs I have mentioned before, that Henry, in conjunction with Baldwin's predecessor, had actually enforced the Clarendon constitutions, which had been confirmed, in the year 1176, by the parliament held at Northampton; but the strongest evidence of it is in the following passage, which I will transcribe from a book of Giraldus Cambrensis de vitis sex Episcoporum coætaneorum; " Item, cum circa idipsum temporis, in præsentiâ Ricardi Wintonienſis

See vol. iii. p. 334.

In Angliâ Sacrâ, par. 2. 430.

" Epiſcopi, de miraculis, quæ tunc creberrimè fiebant, quidam collo-
" querentur, inquit Epiſcopus, qui quaſi de perſecutoribus Martyris unus
" extiterat, multum decepti fuimus de homine illo per habitum illum et
" faſtum, quem exterius (ut videbatur) præferebat; interius autem,
" ſicut ex poſt facto patuit et quotidie patet, longe diſſimilis. Et, cum
" dixiſſet quidam, *mirum autem quod de articulis illis pro quibus martyr*
" *occubuit, nullum eccleſia prorſus obtinuit*, epiſcopus, qui plus ſenſatus
" erat quam literatus, plus in ſæcularibus actibus aſtutus quam liberali-
" bus artibus imbutus, ſic reſpondit, Totum reverâ, quantum in ipſo
" fuit, Martyr obtinuit; quia, ſi ſucceſſor ejus decimam partem bonita-
" tis et probitatis ejus habuiſſet, *nullum eccleſia de articulis illis amiſiſſet.*
" *Sed quod ille per ſtrenuitatem eximiam perlaudabiliter acquiſivit, iſte per*
" *ignaviam, peccatis urgentibus, totum amiſit.*"

P. 410. *The patriarch, who was preſent at this conſultation, together with his colleague, the maſter of the Hoſpital of St. John of Jeruſalem, deſired that prince Richard, or Geoffry Plantagenet, might, as the parliament judged it inexpedient, at this time, for king Henry, their father, to go to the Holy Land, be ſent thither in his ſtead*, &c.

Giraldus Cambrenſis adds, that the patriarch deſired, Prince John, at leaſt, might be ſent on this expedition, if neither of his brothers would go; and that John himſelf begged it of his father, on his knees, but could not obtain his conſent.

Hibern. Expugn. l. ii.

" Sed quoniam nullum aliud a rege reſponſum patriarcha elicere potuit,
" ad aliud denique ſe convertit, rogans, ut vel unum filiorum ſuorum, et, ſi
" non alium, ſaltem natu minorem Joannem, eis in ſubſidium princi-
" pem daret, ut regium ſemen de Andegavenſium ſtirpe deſcendens,
" poſſit eis vel ex hoc ſurculo, redivivo germine, ſuſcitari. Ipſe vero
" Johannes (quanquam in Hiberniam ei à patre datam jam tunc cum
" grandi expeditione mittendus foret) patrios ad pedes ſe provolvens,
" & ut Hieroſolymam potius mitteretur laudabiliter (*ut fertur*) effla-
" gitans, non impetravit."

The words *ut fertur* ſhew, that Giraldus did not hear this from the mouth of John himſelf, or from any certain information; and, as I do not find it mentioned by any one of the other contemporary writers, I

think it deſerves no regard: for the age of John at this time rendered him very unfit to be the defender of the Holy Land; and as Sibylla had a ſon by her firſt huſband, and was married again, there was no probability of the want of a prince of the family of Anjou to inherit that kingdom, if it could be defended, which is the ſingle reaſon given by Giraldus Cambrenſis for this ſuppoſed requeſt.

P. 414. *Before the end of that term, in the year eleven hundred and eighty two, a conference being appointed,* &c.

Giraldus Cambrenſis, whoſe chronology in this part of his hiſtory of the conqueſt of Ireland is very confuſed and uncertain, ſeems to place this event before Lacy's recall from that kingdom in the year 1181; but the Iriſh annals date it in the year 1182.

P. 421. *On the ſixteenth of April, King Henry accompanied by the patriarch of Jeruſalem and many Engliſh lords paſſed from Dover to Whitſand, and from thence into Normandy.*

Brompton in his Chronicle relates a ſuppoſed converſation between the king and the patriarch, in which the latter very groſsly abuſes the former, becauſe he would not go in perſon to the Holy land at that time. The whole is moſt improbable, and ſets out with a circumſtance unqueſtionably falſe, viz. that when this diſcourſe paſſed, the king and the patriarch were taking leave of each other at an Engliſh ſea-port; whereas it is affirmed by ſeveral of the beſt contemporary writers that they went over together into France, and did not part from each other till ſome time afterwards.

V. Diceto, Benedict. Abb. & Hoveden, ad ann. 1185, 1186.

P. 426. *While theſe preparations were making, at the end of the month of April, the king went into England, and took with him his queen, whom ſoon afterwards he again confined in a priſon, from which ſhe was not delivered till after his death, when Richard, her ſon, ſet her free.*

This fact appears from the following paſſages in contemporary authors. Benedict Abbot of Peterborough, in relating the tranſactions of the year

T. ii. p. 545.

year eleven hundred and eighty ſix, ſays, "Rex vero Angliæ, cupiens "venire in Angliam &c. venit uſque Barbefluctum, et ibi navem "aſcendens, applicuit apud Southamptoniam quinto kalendas Maii. *Et* "*adduxit ſecum Alienor Reginam.*" And in giving an account of what happened in England after Henry's deceaſe, he writes thus: "Interim "Domina Alienor, mater prædicti Ducis Normanniæ, per mandatum "illius de ultra mare, *liberata eſt de carcere mariti ſui, quo diu detine-* "*batur*, & Reginalem curiam circumducens, de civitate in civitatem, et "de caſtello in caſtellum, *ſicut ei placuit*, profecta eſt."

Ibid. p. 549.

Brompton, who wrote a little later, but yet in the ſame age, tranſcribes theſe words, col. 1155.

Chron. col. 1547.

Gervaſe of Canterbury likewiſe ſays, "Regina quoque Alienor, quæ, "defuncto rege ſponſo ſuo Henrico, ad imperium filii ſui, Ducis Ricardi, "*à diutino carcere liberata eſt*, ibidem, cum proceribus Angliæ et Ran- "dulfo de Glanvilla, filii ſui ducis adventum expectabat."

The words of Diceto, another hiſtorian of that age, are theſe: "*Alienor* "*Regina, quæ per annos plurimos arctæ fuerat deputata cuſtodiæ*, ſtatu- "endi quæ vellet in regno poteſtatem accepit à filio." And in another place ſpeaking of that queen, he ſays, "A Francis propter conſangui- "nitatem disjuncta fuit per divortium; ab Anglis verò per cuſtodiam "carceralem a thoro viri ſegregata fuit; *cuſtodiam dico ſedecem annos con-* "*tinuatam.*" In reckoning her impriſonment to have laſted ſixteen years, this author forgets her having been ſet at liberty in the year 1184; but ſtill he confirms the account of her being a priſoner when Richard came to the crown.

That ſhe was confined ſoon after her arrival in England, with her huſband, from France, in the year 1186, may be inferred from no mention being made of her, among thoſe who were preſent at the king of Scotland's marriage in the palace of Woodſtock, that year. But it is ſtrange that no author ſhould have taken any notice, in relating the events of the year 1186, of her having been again committed to priſon, or of the cauſe aſſigned for it. The only reaſon I can gueſs for ſuch an omiſſion is, that, the cauſe being ſomething which affected her honour, they who wrote under the reign of Richard and John, her ſons, were afraid to declare it, and therefore only mentioned her having been freed

freed by Richard, on his coming to the crown, or paſſed over the whole in ſilence. Yet one ſhould think that her age in the year 1186, or for ſome time before, would have put her chaſtity out of the reach of temptation.

P. 430. *It may be worth obſervation, that ſome Spaniſh aſtrologers, inſtructed by the Moors in that pretended ſcience, as well as in moſt of their other real knowledge,* &c.

The Moors who made themſelves maſters of the greateſt part of Spain were a people far more learned than the Goths they ſubdued, and continued to be ſo much longer than the times of which I write. What little tincture of mathematicks, aſtronomy, and phyſick, was then poſſeſt by the Spaniards, came to that nation by the intercourſe they had with theſe neighbours in times of peace, or by the inſtructions of captives they had taken in war. But in Africa, as well as in the eaſt, aſtrology was engrafted on the ſcience of aſtronomy; and the learned men, who continually reſorted from thence to the Mooriſh courts in Spain, were profeſſors of both. In imitation of theſe, the aſtronomers in the courts of the Chriſtian Spaniſh kings took alſo upon them to foretell events by the ſtars. The Sicilians learned it of the African Saracens ſettled in their iſle, and likewiſe of the Greeks. The Engliſh probably drew it from Henry's connexions with the kings of Spain and Sicily, and the frequent pilgrimages they made to the Holy Land in that age.

P. 435. *What provoked him to this deed we are not told.*

Since I wrote and printed this, I learn, that ſome Iriſh annals of Leinſter, which Mr. O'Conor did not impart to me, either becauſe he had not ſeen them, or becauſe he did not think them of ſufficient authority, impute the murder of Lacy to an enthuſiaſtical fury, which had been excited in the mind of O Mecy, by the Iriſh clergy in thoſe parts, againſt this lord, on account of his having ſacrilegiouſly erected this caſtle upon the ruins of one of their moſt antient monaſteries, which their tradition ſuppoſed to have been the abode of St. Colum Kill, or Columba.

I am alſo told, that the cruel and treacherous act, aſcribed by me to Dermod, in the 48th page of the third volume, on the faith of the Iriſh an-

nals, as communicated to me by Mr. O'Conor, was done by the father of that king. However this may have been, that Dermod's government was tyrannical, and odious to his ſubjects, is certain.

P. 443. *During the courſe of the above-related events in the year eleven hundred and eighty ſix, the infant king of Jeruſalem, who had ſucceeded to Baldwin ſurnamed the Leper, and was the fifth of that name, died after a reign of no more than ſeven months.*

The death of this prince was ſuſpected to have been cauſed by poiſon, given to him by the earl of Tripoli, (as ſome writers ſuppoſe) but (as others ſay) by his mother. One hardly needs a better proof of the innocence of both, than this uncertainty where to fix the charge. But the reputation of his mother muſt have been very bad, or the malignity of the faction againſt her extreme, to make the ſuſpicion of her having been guilty of ſo horrid a crime find any degree of credit. I aſcribe it to the latter rather than to the former, becauſe it does not appear, from any well-atteſted accounts of her life, that ſhe ever had done any act which could juſtify the belief of ſuch an imputation, without the cleareſt proofs; and becauſe, as the government was really in her hands during the infancy of her ſon, neither ſhe, nor her huſband, who ſhared the power with her, could be tempted to murder him whilſt he continued a minor. To what an exceſs of abſurdity the malice of a faction againſt perſons in power will carry defamation, and how eaſy a reception it meets with in the minds of the vulgar, the hiſtory of all countries, in every age, has ſhewn!

P. 447. *I therefore cannot doubt, that the real motive of his otherwiſe unaccountable conduct was a paſſionate love for this princeſs.*

Benedict. Abb. et Hoveden, ad ann. 1191.

Two hiſtorians, cotemporary with Henry the Second, affirm, that, after his death, Richard told her brother Philip, "he could not perform his promiſe of marrying her, *becauſe ſhe had been deflowered by his father, and had brought him a ſon; which having been proved to that king by the aſſeverations of many perſons, he declared Richard free from his engagement to her.*" And in fact he did ſuffer him, notwithſtanding that engagement, to marry another woman: for which acquieſcence, at a time when his diſpoſitions towards him were far from from being kind, there unque-

ſtionably muſt have been ſome very extraordinary cauſe. Yet the ſame hiſtorians tell us, that in the year 1192 he offered her in marriage to Richard's brother, earl John, and one of them (Hoveden) ſays, that in the following year *John ſwore to Philip that he would marry his ſiſter.* Had theſe princes believed that ſhe had borne a child to Henry, or had been ſeduced by him, it would have been impoſſible for John to receive, or Philip to make ſuch an offer: and therefore this would deſtroy the whole credit of the ſtory, if it were not liable itſelf to great objections: but Rapin Thoyras obſerves, that the treaty made on this occaſion between Philip and John, which is in Rymer's collection, ſays nothing of this marriage, nor is it probable that the latter, who was already married, ſhould promiſe to wed another wife. This laſt objection indeed, would be without reply, if the lawfulneſs of John's marriage with the earl of Gloceſter's daughter had been clear of all doubt; but the archbiſhop of Canterbury had proteſted againſt it, on account of the conſanguinity of the parties, and it was afterwards diſſolved by the pope for that reaſon. Poſſibly therefore the facility of obtaining a divorce may have occurred at this time both to Philip and John, and was the ſecret foundation of the abovementioned propoſal, which, though agreed on between them, could not decently be made an article of the treaty, till ſuch divorce was obtained. But, whatever we may think of the circumſtances related by the two hiſtorians before-cited, I ſee no cauſe to doubt of Henry's having been paſſionately in love with this princeſs, and am apt to believe that ſuſpicions conceived of her virtue, while ſhe remained in his power, gave Richard a pretence for breaking his contract with her, and hindered Philip from reſenting ſuch an affront to his ſiſter, and to his own honour. Theſe ſuſpicions may have firſt been ſuggeſted by Eleanor, and ſome parts of Henry's conduct would add weight to the evidence, which ſhe and others inſtructed by her might bring, ſo as to make it deſirable for both theſe kings to put an end to the match without an open quarrel.

Ann. Pars poſterior f. 412 ad ann. 1193.

Rymer Fœdera, t. i. p. 85.

P. 452. *So fondly did they believe the fabulous ſtories about the Britiſh Arthur*, &c.

Whoever conſiders the judicious obſervations of Milton, in his excellent Introduction to the Hiſtory of Britain, will find good cauſe to doubt

whether this hero ever had a real exiſtence. It is pretended, indeed, that the controverſy was decided in Henry the Second's reign, by his body being found between two antient pyramids in the abbey of Glaſtonbury, on a ſearch that was made for it, by orders of that king, who had heard from a Welſh bard, that, by digging there to the depth of fifteen feet, they would find it. Giraldus Cambrenſis affirms, *that he ſaw it himſelf*; but then he ſays that the bones were thoſe of *a giant*; and in this deſcription of them the other writers of that age, who mention this ſuppoſed diſcovery, concur.

(De Britannicarum Eccleſiarum Primordiis, c. vi.)

Uſher gives us a charter of King Henry the Second, in which that prince confirms to the abbey-church of Glaſtonbury all privileges granted to it by his royal predeceſſors, among whom he reckons *Arthur*, and ſays, that their ſeveral charters had been brought and read before him. (*Quorum privilegia et chartas feci diligenter inquiri et coram me legi.*) But the forging of charters in favour of abbeys and churches was a common practice in thoſe days.

It ſeems to me that all the evidence of Arthur's exiſtence, on which any ſtreſs can be laid, is in the ſongs of Welſh bards, who, it is ſuppoſed, had ſome foundation of truth for the many tales they recounted about him and his knights; as the old French *romancers* had for thoſe they told about Charlemagne and his peers, though for the moſt part fabulous. But of the real exiſtence and acts of that illuſtrious emperor we have many certain proofs in the writings of Eginhartus, one of his miniſters, and other monuments and authentic records of thoſe times in which he lived; all which is wanting with regard to the exiſtence and acts of the ſuppoſed Britiſh prince. Yet the faith of the Engliſh, as well as of the Welſh, in Arthur's exploits was ſo great, during the age of which I write, that a ſword, ſuppoſed to have been his, was preſented, in the year 1191, to Tancred, king of Sicily, by Richard, king of England, as a valuable gift. The ſwords of heroes in thoſe days had names given to them, and this was called *Caliburn*. How Richard got it, and whether it was ſaid to have been found in the abbey of Glaſtonbury together with the body, or in ſome other place, we are not told; but I preſume, when that monarch took it with him out of England, he intended to uſe it himſelf in the holy war againſt the infidels. Cer-

V. Benedict. Abb. & Hoveden, ad ann. 1191.

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tain it is, he performed ſuch marvellous feats of chivalry, in the courſe of that war, as almoſt equal thoſe which the bards aſcribe to Arthur. I will mention one, atteſted by the report of thoſe enemies againſt whom he fought. The Arabian writer of the Life of Saladin tells us, that he (Richard) at the head of only ſeventeen horſemen and a ſmall body of foot, being ſurrounded by the ſultan's army, they maintained their ground with ſuch valour, that the Turks and Saracens, quite aſtoniſhed and diſcouraged, could not be brought by their leader to renew the attack. C. 165.
" Percelluntur et attoniti ſtupent noſtri ad hanc ipſorum conſtantiam in
" medio noſtro exercitu, ipſis in orbem circumfuſo." He adds, that Richard had, that day, rode along their whole line, and dared them all to a ſingle combat; but not one among them would venture to come out againſt him. " Namque et relatum mihi, *Anglum* (Ricardum ſci-
" licet) *iſto die, arreptâ haſtâ impetum in noſtros dediſſe, univerſam aciem*
" *ab extrema dextra ad extremam ſiniſtram percurrendo, neque quemquam*
" *adverſus ipſum proceſſiſſe.* Iratus igitur ab oppugnatione ſe avertit ſul-
" tanus, &c."

P. 456. *On the fourth of July in the year eleven hundred and eighty ſeven a battle was fought, of which the moſt circumſtantial and authentic relation is given to us by one of the miniſters of the ſultan, who attended him to this war, and has written a hiſtory of his life and acts.*"

The hiſtory which he wrote is an admirable performance, weighty in matter and ſenſe, perſpicuous in the ſtyle, but more eſpecially to be valued on account of the knowledge, the writer had of the facts which he has related. It is from him that we learn, in the moſt authentic manner, the actions and negociations of king Richard the Firſt in the courſe of the enterpriſe for the recovery of the Holy Land, and all the particulars of that memorable war. I will give the reader here, in the Latin tranſlation, what he ſays of the opinion conceived of that prince on his firſt arrival before the city of Ptolemais, p. 160.

" Rex Angliæ quoque nunc memorandus; *præſtrenuus inter eos,*
" *magnique animi ac firmi pectoris, quem inſignes pugnæ nobilitarant;*
" *quippe intrepidæ in bellis erat audaciæ. Hic rege Gallorum minor*
" *apud eos cenſebatur ratione regni atque dignitatis, ſed tum divitiis flo-*
" *rentior, tum bellicâ virtute multo erat celebrior.*"

How

How well this opinion was anſwered by his actions, many paſſages in the ſame hiſtorian declare; and that writer appears to have thought no leſs highly of this prince's dexterity in negociation, than he did of his valour; for, after much experience of both, he ſays, "Dei quidem ſingulari indiguimus adjutorio ad peſſimas peſſimi hoſtis ſtrophas eludendas ac diſcutiendas, *quo nec aſtutiorem ullum, nec bellicoſiorem experti ſumus.*"

P. 460. *But he ſpeaks of the earl in a manner very hoſtile, and particularly inconſiſtent with the notion entertained by ſome antient writers, of his having apoſtatiſed from the Chriſtian to the Mahometan faith, or promiſed ſo to do.*

The words are theſe, as I find them in the Latin tranſlation. "At "Comes Tripolitanus, ardentiſſimus idem, ferociſſimuſque inter ſuos, "cladis initia proſpiciens, quæ in religionis ſuæ homines eſſet ingruitura, ſuſque deque habens factorum pulcherrimam, quâ florebat, famam, "ſemet ab acie inſtituendâ ineundâve cohibuit, interque initia, ante "quam malum ingraveſceret, fugæ ſe mandavit, Tyrumque verſus iter "arripuit. Inſecuto eum Muſulmanorum agmine, ſolus evaſit, hominiſque fraudem ac malitiam non amplius metuendam habuit Iſlamiſmus." And afterwards, "Comes quidem Tripolitanus, fugâ Tripolim perlatus, pleuritide *divinitus immiſsâ*, periit." In a letter written to the pope, by the Genoeſe in the Holy Land, ſoon after the battle, mention is made of ſix knights of the king of Jeruſalem's houſhold deſerting to the enemy, changing their religion, and informing the ſultan, before the defeat of the Chriſtians, how bad a ſtate they were in, from being ill poſted, and what they propoſed to do in order to extricate themſelves from this danger: to which intelligence the writers of this letter ſuppoſe, the deſtruction of the army was owing. "Tunc ſex ex militibus regis, "ſcilicet Baldewinus de Fortuna, et Radulphus Buceus, et Laodicius de "Tabaria, cum aliis tribus ſociis diabolico ſpiritu arrepti ad Saladinum "confugerunt, et ſponte Saraceni facti de omni eſſe et propoſito atque "continentiis Chriſtianorum eum inſtruxerunt. Saladinus vero, quia "de diſcrimine prælii anxius dubitabat, reſumpſit vires, et, cum tubis "et multitudine bellatorum infinitâ, in Chriſtianos, qui propter loca "ſaxoſa et invia pugnare non poterant, aſſultam fecerunt, et eos omni "genere

Benedict. Abb. t. ii. p. 473, 474.

" genere pugnandi Saladinus impugnavit et interfecit." But nothing is ſaid of theſe traitors having acted in concert with the earl of Tripoli; nor is any charge of treaſon brought againſt *him*. And, from the account which is given, in this letter itſelf, of the circumſtances of the army before the deſertion of theſe ſix knights, it evidently appears, that, although they had not deſerted, Saladin muſt have deſtroyed it by the ſuperiority of his forces, and the meaſures he had taken.

P. 463. *But perceiving that deſpair inſpired them with courage, and deſiring to finiſh his conqueſt, he allowed them to purchaſe their lives and liberty with ten biſants of gold for every man in the city, five for every woman, and one for every child; all who ſhould not be able to pay thoſe ſums being devoted to bondage.*

The writer of Saladin's Life, often cited in this work, computes the amount of this capitation tax to be two hundred and twenty thouſand pieces of gold, all which he ſays were given away by the ſultan before he left Jeruſalem, partly to his officers and the learned men in his court, and partly as a charitable aſſiſtance to thoſe who had thus bought their freedom, and were to be conveyed from thence to Tyre. Many other inſtances of his immenſe liberality, of his humanity to his captives, of his courteſy to ſtrangers, and of every royal virtue diſplayed in his actions, are recorded by that author. But he lightly paſſes over his treaſon and ingratitude towards his maſter Noureddin and all the family of that ſultan, or excuſes them by the ſervice, his making himſelf ſo great, at the expence of thoſe princes, did to the cauſe of religion. This author every where ſtyles his war againſt the Chriſtians in Syria and Paleſtine *a Holy War (bellum ſacrum)* and his ſoldiers, who fell in it, *Martyrs*.

Vit. Saladini, Auctore Bohadino F. Sjedaddi, c. 36.

P. 464. *The only offence that was given, by that prince or his army to any of the Chriſtians, in the taking of Jeruſalem, was, that a large gilded crucifix, erected on the top of the church of the Hoſpital, was pulled down by the ſoldiers, dragged in the dirt, ſpit upon, and (as ſome writers ſay) whipt through all the ſtreets of the city for two days together.*

Abulfeda tells us, that a picture of an Arab ſcourging Chriſt was ſoon afterwards made at Tyre, and ſent from thence into Europe, to excite the Franks.

L. i. c. 30.

Franks to undertake a general cruſade, which it did with ſuch force, that the very women left their houſes, and engaged in that enterprize. He ſays that the Arab was ſuppoſed to be Mahomet; but I rather believe it repreſented the man who whipped the crucifix abovementioned through the ſtreets of Jeruſalem: and certainly ſuch a picture muſt have produced great effects on the minds of perſons accuſtomed to worſhip crucifixes; for even Proteſtants, who abhor that idolatrous veneration, could not ſee it without horror.

Vit. Saladini c. 80, p. 136.

The Arabian writer of the Life of Saladin mentions another picture, which Conrade of Montferrat had cauſed to to be painted at Tyre, repreſenting the Holy Sepulchre, and a Mahometan horſeman trampling over it with the feet of his horſe, that was ſtaling upon it. "Hoc ſuper ſepulchro equum delineaverat, ab equite Muſul-"manno inſeſſum, qui monumentum Meſſiæ, intermingente equo, "conculcabat. Hanc picturam trans mare produxit, in foris et con-"ciliabulis, portantibus eam ſacerdotibus, nudo capite, cilicia indutis, "luctuoſumque væ ingeminantibus. *Jam vero picturæ et imagines eorum* "*corda vel maximè adficiunt; eæ quippe ſunt radix et fundamentum re-*"*ligionis eorum.*" A cenſure too well founded on the idolatry practiſed by moſt Chriſtians in thoſe days!

P. 466. *Aſſaulted the city on the ſide of the continent, with thirteen* catapults *(the great artillery of thoſe times) which threw heavy ſtones againſt the walls.*

V. Benedict. Abb. t. ii. p. 509, 510.

The words of a letter to Henry, from one of the Knights Templars of Jeruſalem, are, "A feſto vero S. Martini uſque ad circumciſionem "Domini obſedit Tyrum *tredecim petrariis, die noctuque lapides in eâ* "*inceſſanter jactantibus.*"

Daniel, Hiſtoire de la Milice Françoiſe, p. 62.

In the ſecond volume of this hiſtory, p. 136, I have ſaid that the *petrariæ* were the antient *baliſtæ*, in which I was deceived by the authority of Pere Daniel; but I am now convinced that they were the *catapultæ* of the ancients; the *baliſtæ* having been uſed to throw darts, not ſtones. What the force of ſome of theſe *petrariæ* was, the following excerpt from a writer of the Holy war againſt Saladin, who himſelf was engaged in that expedition with King Richard the Firſt, and whom I have quoted before, will ſhew:

"Petra-

" Petrariarum hoſtilium, quarum fuit in civitate copia, una fuit incom-
" parabilis, et magnitudine compactæ machinæ, et, pro voto torquen-
" tium, inæſtimabilis molis lapides jaculando efficax. Hujus nihil po-
" tuit reſiſtere vehementiæ. Incredibilis molis quippe lapides jaciebat,
" emiſſos etiam lapides procul impetus egit.

" Omnia comminuit jactus, quæcunque feriret.

" Lapides nihilominus, quoties nullo retardarentur obſtaculo, unius
" pedis longitudine agebantur in terram cadentes. Nonnullas Petrari-
" arum noſtrarum percutiens in particulas diſperſit, vel certè inutiles ef-
" fecit. Machinas quoque alias plures vel ictu diſſolvit, vel particulam,
" quam attigerat, abſcidit. Tanta nimirum erat vehementia jaculandi,
" et impetus tum pertinax, quod nihil tam ſolidum, vel ita fuit com-
" pactum, cujuſcunque materiæ vel ſubſtantiæ, quod poſſet incolume
" tam intolerabilis percuſſuræ ſuſtinere injuriam."

Gul. de Vinisauf, Ricardi Regis Iter Hieroſolymitanum, l. i. c. 47.

From other paſſages in hiſtorians of that age it appears, that theſe engines had almoſt the effect of our cannon. See a deſcription of them in Folard's Remarks on Polybius. The other machines that are mentioned in the account above-cited were *Baliſtæ* for throwing darts, or battering rams, or moveable towers of wood.

P. 467. *Nor would ſhe have admitted him to her court and council, had there been the leaſt ſuſpicion of ſuch a perfidy at that time.*

The firſt notice I find of the earl of Tripoli's being ſuſpected of treaſon, is in a letter to the king of France, written in the year 1188, from ſome envoys he had ſent to Conſtantinople. They ſay that Saladin told ſome perſons there named, *that the earl of Tripoli had delivered to him the Land of Promiſe.* But no credit is due to the *hearſays* of theſe men; for they likewiſe report to their maſter, that Saladin had ſent to Conſtantinople, with the emperor's conſent, *his image, or idol, to be publickly worſhiped there*, but, by the grace of God, the ſhip in which it was ſent had been taken at ſea, and carried to Tyre. " Noveritis
" etiam quod dominus Saladinus, aſſenſû Imperatoris Conſtantinopoli-
" tani, miſit Conſtantinopolim *Idolum ſuum, ut ibi publicè adoretur:*
" ſed per gratiam Dei captum eſt in mari à venientibus, et cum ipſâ
" navi ductum eſt Tyrum."

Benedict. Abbas, ad ann. 1188. t. ii. p. 523.

P. 473. *Henry's mind, more enlightened, ſaw that men of all religions are entitled to all the rights of humanity*, &c.

By *rights of humanity* I mean ſuch a treatment as the equity of our government, and the tolerating ſpirit of the proteſtant religion, give to the Jews at this time. This goes much beyond what the temper of the age, in which Henry the Second lived, ſuffered him to afford them: but he is to be praiſed for having acted towards them with all the lenity in his power. If he did not ſhew the ſame indulgence to the errors of thoſe Germans whom the council of Oxford condemned for hereſy in his reign, it was becauſe he was taught to conſider all diſſent from the Roman-catholick faith in any members of that church as far more criminal than the unbelief of the Jews.

P. 475. *The conqueſt made by that lord of the province of Ulſter had juſt before been ſecured by the death of O Lachlin, prince or chieftain of Tyrone, who was killed by an Engliſh arrow, in a fight with ſome maroders in the county of Down.*

By this, and many other inſtances, in the courſe of theſe wars, it appears, that the Engliſh conqueſts in Ireland were principally owing to the uſe of the long bow in battle, which the Iriſh infantry wanted: and therefore Giraldus Cambrenſis, in his chapter entitled, *Qualiter Hibernica gens ſit expugnanda*, adviſes, that in all engagements with that people, archers ſhould be intermingled with the heavy-armed troops. His words are theſe: "*In Hibernicis autem conflictibus et hoc ſummopere curandum, ut ſemper ſagittarii militaribus turmis mixtim adjiciantur; quatenus et lapidum (quorum ictibus graves et armatos cominus appetere ſolent, et indemnes agilitatis beneficio, crebris accedere vicibus et abſcedere) e diverſo eminus ſagittis injuria propulſetur.*"

It is ſtrange that the Iriſh, who had much intercourſe with the Welſh before Henry the Second's time, ſhould not have learnt from that nation, who greatly excelled in archery, that arrows were better weapons to annoy an enemy with than ſtones, thrown by the hand without the help of ſlings, which, unleſs at a ſmall diſtance, could have little or no effect! The chapter above-cited from Giraldus Cambrenſis is very ſenſibly written,

ten, and contains good inſtructions to the Engliſh leaders in Ireland, on the moſt proper methods of carrying on the war for reducing all that iſland to a perfect ſubmiſſion.

P. 476. *This conteſt was not brought to a final concluſion till after Henry's death.*

Hoveden gives us, in his Annals, two epiſtles, or bulls, from Pope Clement the Third and Pope Cæleſtine the Third, in which they declare the church of Scotland exempt from any dependance, except on the ſee of Rome alone. But I am ſatisfied that the former, which ſtands in the name of Clement, was never ſent by that pontiff: for not only the ſubſtance of it is, word for word, the ſame with that of Cæleſtine, but the date is alſo the ſame, viz. Datum Lateranis tertio idus Martii, pontificatûs noſtri anno primo. And no mention is made of it by Benedictus Abbas, who gives us that of Cæleſtine, wherein nothing is ſaid of any bull on that ſubject having been obtained to the ſame effect from his predeceſſor Clement. Nor is it probable that, before the ſovereignty of England over the kingdom of Scotland had been given up by Richard, any pope would have ventured, without the king of England's conſent or privity, to free the church of that kingdom from all dependance on the Engliſh; and we have no account in Hoveden, or any other writer, of Henry's having been informed of this judgment or decree of the Roman ſee on this matter, in which he and the archbiſhops of Canterbury and York had ſo important a concern. There are ſome articles which he, certainly, would have oppoſed, particularly this, "Prohibemus "autem, ut controverſiæ, quæ fuerint in regno illo de poſſeſſi-"onibus ejus exortæ, ad examen extra regnum poſitorum judicum non "trahantur, niſi ad Romanam eccleſiam fuerit appellatum." For theſe reaſons I conclude, that it was a miſtake and inaccuracy in Hoveden, which made him aſcribe the ſame bull to two different popes. It is obſervable, that in the enumeration of biſhopricks in the kingdom of Scotland, that of Wittern (or *Candida Caſa*) is omitted, though Cardinal Vivian, as legate from Alexander the Third, had, in the year 1177, ſuſpended a biſhop of that ſee, for not appearing before him, among the other Scotch prelates, at a council held in Scotland. The biſhop's plea

V. Hoveden ad ann. 1188. p. f. 371. & ad ann. 1191.

Benedict. Abb. t. i. p. 211. Hoveden, ad ann. 1177.

againſt him was, that the archbiſhop of York having been appointed by Alexander apoſtolical legate within his own province, the legatine power of that metropolitan extended over the ſee of Wittern, as ſubject to his province. And this ſubjection was now confirmed by the pope, who does not reckon that ſee among thoſe of Scotland, which he decreed ſhould be ſubject to no foreign juriſdiction but that of Rome.

P. 480, 481. *The barrenneſs of Queen Jane, probably cauſed by her having been married too young, deſtroyed the hopes which her father had entertained, that theſe opulent countries would long continue ſubject to princes of his race.*

Notwithſtanding the want of iſſue by this marriage, the king of Sicily retained ſuch affection for his queen and his father-in-law, Henry, that, beſides a vaſt dower which he had ſettled upon her, he bequeathed to that prince, by his laſt will and teſtament, the following legacies; a golden table twelve feet long and a foot and a half broad, with two golden tripods to ſupport it; a tent of ſilk ſo large that two hundred knights might eat together therein; four and twenty cups of ſilver, and as many diſhes or plates; ſixty thouſand meaſures of wheat, as many of barley, and as many of wine, and an hundred armed galleys compleatly fitted out, and victualled for two years. The proviſions and galleys, I preſume, were intended, by William, for the ſervice of Henry in the cruſade: but, although the latter died before the teſtator about three months, the will was not altered; and Richard, as heir to his father, received from Tancred, William's ſon, twenty thouſand ounces of gold, in lieu of theſe bequeſts.

Benedict. Abbas t. ii. p. 612, 613. Hoveden ad ann. 1190.

P. 482. *But it is worthy of note, that the German emperor ſtyled him, in the ſuperſcription of his letter*, his deareſt brother, the illuſtrious king of England; *but the Greek neither gave him the epithet* illuſtrious *in the ſuperſcription, nor any higher title in the body of his letter than* your Nobility (veſtra Nobilitas.)

This Greek emperor treated Saladin, a greater potentate than himſelf, with as little reſpect as he did the king of England. We have a letter from him to that ſultan, written ſoon after this time, in which he gives

him only the title of *Eminence*, taking himſelf that of *Majeſty* with many pompous attributes.

" Iſaacius Rex, credens in Meſſiam Deum, a Deo coronatus, *victorioſus, ſemper Auguſtus, Imperator potentiſſimus, invictiſſimus, Autocrator Græcorum, Angelus*, ad eminentem genere ſultanum Ægypti Sala- " dinum, dilectionem et amicitiam. Pervenit ſcriptio *Eminentiæ tuæ* miſſa " ad *Majeſtatem meam*." The whole is in the ſame ſtyle, and concludes with theſe words, " Omnino liquet *Majeſtati meæ* aliud nihil me ex " amicitiâ tuâ feciſſe lucri, quam inimicitiam totius Francici generis."

Vita Saladini, auctore Bohadino F. Sjeddadi, c. 75.

P. 485. *He likewiſe wrote to the king, and reminded him how expedient it was for his kingdom, that the glorious martyr St. Thomas ſhould continue to be an interceſſor for him, which he could not expect if he did not maintain the privileges and dignities of the church of Canterbury.*

There is a remarkable paſſage in the Itinerarium Cambriæ of Giraldus Cambrenſis, where that author gravely ſays, that, as the Iriſh and Welſh are obſerved, in this mortal life, to be prone to anger and revenge above all other nations, ſo *the ſaints* of thoſe countries, in their life after death, ſeem to be, more than all others, of a revengeful temper: " *Sicut na-* " *tio Hibernica, nec non et Cambrica, præ aliis gentibus præcipites in* " *iram et ad vindictam in vitâ proni reperiuntur, ſic et, in morte vi-* " *tali, terrarum earundem Sancti præ aliis animi vindicis eſſe videntur.*"

L. ii. c. 7.

Now, if Henry believed, with Giraldus Cambrenſis, that ſaints in heaven retained the ſame temper and paſſions which prevailed in them while living, the pope's argument, in the letter, to which this note refers, muſt have greatly affected that king; for he knew the partiality which the living Becket had ſhewn *for the privileges and dignities of the church of Canterbury*, and he alſo knew him to have been extremely *vindictive*: ſo that, in offending againſt theſe, he muſt have been apprehenſive, not only of loſing the interceſſion of the ſaint, but of incurring the terrible fury of his vengeance. He ſeems, however, to have riſqued it, upon this occaſion, without much fear, thinking, perhaps, that *the glorious martyr's* ſoul had grown milder in heaven than it had been upon earth, and not quite ſo partial to the intereſt of the monks of Chriſtchurch in Canterbury.

I can-

I cannot leave the ſubject of *Saint-worſhip* in the age of which I write, without taking notice of a ſingular kind of theft, committed by a monk in the twenty-third year of this reign. A certain canon of the abbey of Bodmin in Cornwall ſtole from thence the body of St. Petroc, and fled with it to the abbey of St. Mevenni in Bretagne. As ſoon as the loſs was diſcovered, the prior of Bodmin was deputed, to aſk the aſſiſtance of King Henry the Second, for the recovery of the body. That prince ſent an order to his chief juſticiary in Bretagne, that he ſhould cauſe it to be inſtantly reſtored. This officer went accordingly, with a powerful force of armed men *(cum armata manu et potenti)* to the abbey of St. Mevenni, and demanded the body. The monks refuſed, for ſome time, to deliver up their prize; but, he ſwearing, that, if they did not ſoon reſtore it, he would take it by violence, they ſurrendered it to the prior, *whole and without diminution*, as they declared upon oath. The prior carried it triumphantly in an ivory box to Wincheſter, where Henry ſaw, and *adored it* (ſays Benedictus Abbas) and then *let him return in peace, with his ſaint, to the abbey of Bodmin.* I preſume that St. Petroc, however unknown to us, was famous in Cornwall, for miracles worked by his reliques, and that in loſing his body the monks of Bodmin apprehended their community would have ſuffered, not only by being deprived of his patronage, but alſo by the offerings made at his ſhrine being tranſferred to Mevenni. The monks of Canterbury feared a like injury to their convent, if archbiſhop Baldwin's deſign of building a church at Hackington near that city, and dedicating it to Becket, ſhould be accompliſhed.

See Benedict. Abb. ann. 1177.

P. 492. *Geoffry de Luſignan ſaved his life by flying out of France, from whence he went by ſea to Tripoli, where his brother Guy then reſided.*

This lord is mentioned, by the writer of the Life of Saladin, among thoſe who were taken captives, together with King Guy, at the battle of Tiberias; but it is certain, from the teſtimony of many other hiſtorians who lived in thoſe days, that he was in Aquitaine when that battle was fought, and did not arrive in the Eaſt till the year 1188.

P. 494. *and in a very ſhort time took the city of Cahors, the ſtrong caſtle of Moiſſac, all the province of Quercy, and ſeventeen caſtles in the neighbourhood of Toulouſe.*

It has been mentioned in a former part of this hiſtory, that the city of Cahors, and the province of Quercy, with ſeveral other parts of the earldom of Toulouſe, had been conquered by Henry in the year 1159, and left in his poſſeſſion by the treaty of peace between him and the earl concluded the next year; but, as it appears that theſe places were reunited to the earldom before this war, and now regained by Richard, it muſt be ſuppoſed that they had been reſtored to the earl, by the ſucceeding convention between Henry and him, in the year 1172, when he acknowledged himſelf a vaſſal to that king, as duke of Aquitaine, for his earldom.

P. 505. *Philip purſued him three miles, and killed many of his Welſh.*

See Powel's Hiſt. of Wales, p. 227, 228.

This being the laſt mention made of the Welſh in my account of theſe times, I will take notice here of a remarkable paſſage in Dr. Powel's Hiſtory of Wales, concerning a voyage performed by one of their princes in the 16th year of the reign of King Henry the Second. The words are theſe:

"Madoc, another of Owen Gwyneth's ſons, left the land in contention betwixt his brethren, and prepared certain ſhips with men and munition, and ſought adventures by ſea, *ſailing weſt, and leaving the coaſt of Ireland ſo far to the north, that he came to a land unknown, where he ſaw many ſtrange things.*"

P. 206. See alſo the Preface to Wynne's Hiſtory of Wales.

In enquiring what credit is due to this ſtory, it will be neceſſary to premiſe, that this part of the Hiſtory publiſhed by Dr. Powel is not taken from the Chronicle of Caradoc of Llancarvan, who (as Powel affirms) ended his collections in the year 1156, antecedent to the date of this ſuppoſed event; but is ſaid by Humphry Lluyd, the tranſlator of Caradoc, to have been compiled from collections made from time to time, and kept in the abbeys of Conway and Stratflur.

See Powel's Preface and Wynne's.

We are alſo told, that the beſt and faireſt copy of theſe was written by Gutryn Owen in the days of Edward the Fourth, and tranſlated into Engliſh

Engliſh by the Humphrey Lluyd before-mentioned, who flouriſhed in the reign of King Henry the Eighth, and continued the hiſtory to the death of Prince Llewelyn ap Gruffyth in the year 1282. But, this gentleman having been prevented by death from publiſhing his work, it was not ſent to the preſs till the year 1584, when Dr. Powel publiſhed it, with many additions and interpolations of his own. The latter ſays in his preface, "that he had conferred Lluyd's tranſlation with the Bri-"tiſh book, whereof he had two antient copies, and *corrected* the ſame "when there was cauſe ſo to do!" and adds, "that, after the moſt "part of the book was printed, he received another larger copy of the "ſame tranſlation, being *better corrected*, at the hands of Robert Glo-"ver, Somerſet herald, a learned and ſtudious gentleman in his profeſ-"ſion, the which if he had had a the beginning, many things had "come forth in better plight than they now be."

It is therefore very doubtful whether the above-cited paſſage concerning Madoc's voyage gives the ſenſe of the Britiſh book which Gutryn Owen had tranſcribed, as *tranſlated* by Lluyd, or as *corrected* by Powel, and whether we can depend on its being agreeable to the original text. It may be ſuſpected that Lluyd, living after the diſcovery of America by Columbus, may have dreſt up ſome accounts of traditions about Madoc, which he found in Gutryn Owen, or other ancient Welſh writings, in ſuch a manner as to make them convey an idea, that this prince, who perhaps was a bolder navigator than any of his countrymen in the age when he lived, had the honour of being the firſt diſcoverer of that country. Sir Philip Herbert, a writer of the ſame nation, who is zealous for the truth of this ſuppoſed diſcovery, (which he conceives would give our kings a title to the Weſt Indies) adds to the authority of Gutryn (or Guten) Owen, that of Cynwrick ap Grono, another antient Welſh bard, and alſo of Sir Meredith ap Rhees, who lived in the year 1477. The words of the former bard he does not quote, but thoſe of the latter he does, and tranſlates them into Engliſh. The poet, ſpeaking in the perſon of his hero, ſays,

See his Travels.

"Madoc ap Owen was I call'd,
"Strong, tall, and comely, not enthrall'd

"To

"To honeſted pleaſure, but to fame:
"Thro' land and ſea I ſought the fame."

This proves indeed that Madoc was famous in thoſe days for ſome voyage he had made, but, not marking the courſe, it is of no importance to the matter in queſtion, which entirely depends on his diſcovering land *to the ſouth-weſt of Ireland*. Dr. Powel, having given the deſcription above-cited, viz. *that he ſailed weſt, and leaving the coaſt of Ireland far north, came to a land unknown*, adds the following note: P. 229.

"This Madoc, arriving in that weſtern country, into which he came "in the year 1170, left moſt of his people there, and returning back "for more of his own nation, acquaintance, and friends, to inhabit that "fair and large country, went thither again with ten ſails, *as I find it* "*noted by Gutryn Owen*."

And then he gives us ſome reaſons why he takes this *land unknown* to have been ſome part of Mexico, rather than of Nova Hiſpania or Florida, as Lluyd had ſuppoſed. Without comparing the arguments for their different conjectures (as none of them ſeem to me to have much weight) I will only ſay that if Madoc did really diſcover any part of America, or any iſlands lying to the ſouth-weſt of Ireland in the Atlantic ocean, without the help of the compaſs, at a time when navigation was ill underſtood, and with mariners leſs expert than any other in Europe, he performed an atchievement incomparably more extraordinary than that of Columbus! But, beſides the incredibility of the thing itſelf, another difficulty occurs; that is, to know how it happened that no Engliſh hiſtorian, contemporary with him, has ſaid a word of this ſurprizing event, which, on his return into Wales, and public report of *the many ſtrange things he had ſeen*, muſt have made a great noiſe among the Engliſh in thoſe parts, and would have certainly reached the ears of Henry himſelf. Why is no notice taken of a fact ſo important to the honour of his country by Giraldus Cambrenſis, who treats ſo largely of the ſtate of Wales in his times? One may alſo be in ſome doubt, what could have cauſed ſo entire a deſtruction of the colony planted by Madoc, and of all belonging to it, as that in no land, ſince diſcovered to the ſouth-weſt of Ireland, any certain monument, veſtige, or memory of it, has ever yet been found!. But the firſt foundation

of all enquiry about this adventure, which many good modern writers have inclined to believe, ſhould be a faithful and well-atteſted tranſlation of the words of Gutryn Owen, or Cynwrick ap Grono, relating thereto, if their writings ſtill remain.

P. 506. *Full of ſhame and vexation, at having been forced to turn his back on his enemy, which he had never done before,* &c.

I do not deem his retiring (however precipitately) into the caſtle of Giſors, when attacked by the French during a conference with their king, any exception to the fact, *that he never had turned his back on his enemy before his flight from Mans*; becauſe the flying from a tumult ſuddenly raiſed, as that was, in the midſt of a treaty of peace, could be attended with no ſhame; and the propoſition here affirmed relates only to actions in fair and open war.

See vol. iii. p. 498.

P. 510. *A contemporary writer ſays, that Philip, in this conference, reconciled Richard with Henry.*

This fact, if true, overturns what ſome hiſtorians have ſaid of Henry's curſing his ſon Richard, as well as John, on his deathbed, and obſtinately refuſing to revoke his maledictions, though urged to it by the biſhops who attended him in his laſt moments: nor does that ſtory well agree with other circumſtances of his death and behaviour in his ſickneſs, which are mentioned in the moſt authentick relations.

P. 511. *And, knowing his ſon, made an effort, with a faint and almoſt extinguiſhed voice, to expreſs a deſire that he ſhould obtain the biſhopric of Wincheſter, or rather the archbiſhopric of York.*

It may be preſumed, Henry thought, that, after he ſhould be dead, this lord would have leſs to fear from any reſentments, his brothers Richard and John might have conceived againſt him, if he was poſſeſt of a high eccleſiaſtical dignity, than in any civil office; and therefore deſired to bring him back into the church, which he had quitted before.

I think it very ſurprizing, that neither by his will, nor verbally on his death-bed, this king ſhould have taken any notice of William, called

afterwards Longſword, his other natural ſon by Roſamond Clifford, and that no writer of thoſe times ſhould have aſſigned any reaſon to account for this omiſſion. Richard gave to that lord in marriage the daughter and heireſs of William earl of Saliſbury, who died in the year 1196, and with her that earldom. He afterwards became a great and famous man.

See Dugdale's Baronagde, SALISBURY.

The END *of the* NOTES *on the* FIFTH BOOK *of the* LIFE *of* KING HENRY *the* SECOND.

APPEN-

APPENDIX

APPENDIX

TO THE

FIFTH BOOK

OF THE

Life of King Henry the Second.

N° I.

This refers to vol. iii. p. 270, 271.

From the Archives of Dublin.

HENRICUS Rex Angliæ, Dux Norm. Acq. & Comes Andeg. Archiepiſcopis, Epiſcopis, Abbatibus, Prioribus, Comitibus, Baronibus, Juſticiariis, Vicecomitibus, Præpoſitis, Miniſtris, & omnibus fidelibus ſuis Francis & Anglicis & Hibernenſibus totius terre ſue, ſalutem. Sciatis me dediſſe & conceſſiſſe & preſenti charta confirmaſſe hominibus meis de Briſtow Civitatem meam de Divelin ad inhabitandum. Quare volo & firmiter precipio, ut ipſi eam inhabitent, & teneant illam de me & de Heredibus meis bene & in pace, libere & quiete, integre & plenarie & honorifice, cum omnibus libertatibus & liberis conſuetudinibus quas Homines de Briſtow habent apud Briſtow & per totam terram meam. Teſtibus Will° de Braoſa. Regin. de Curtenai. Hug. de Gundevilla, Will° filio Aldelmi, Ranulpho de Camvilla, Hug. de Creiſii, Regin° de Pavilla. *Apud Divelin.*

This refers to vol. iii. p. 271.

N° II.

From the MSS. of the late Biſhop Sterne.

A. 20 H. II.

HENRICUS Rex Angliæ, Dux Normanniæ & Acquitaniæ, & Comes Andegaviæ, Archiepiſcopis, Epiſcopis, Baronibus, Juſticiariis, Vice-comitibus, & omnibus Hominibus terræ ſuæ, Salutem. Sciatis me conceſſiſſe Burgenſibus meis de Dublin quod ſint quieti de Tholonio & Paſſagio, & Pontagio, & omni conſuetudine per totam terram meam Angliæ, Normanniæ, Walliæ, & Hiberniæ, ubicunque venerint ipſi et res eorum. Quare volo & firmiter præcipio, quod habeant omnes libertates quietancias & liberas Conſuetudines ſuas plene & honorifice ſicut mei liberi & fideles Homines. Et ſint quieti de Tholoneo &c. Et prohibeo nequis eos ſuper his deturbet contra hanc Chartam meam, ſuper decem librarum forisfacturam. Teſtibus Ricardo de * Hum. Conſtabulario, Reginaldo de Courteneys, Ricardo de Camvilla, Willielmo de Lannelleys. Apud Sanctum Laudinum.

* Humets.

This refers to vol. iii. p. 298.

N° III.

From Ware, Antiq. Hib. p. 237, 238.

HENRICUS Dei gratiâ Rex Angliæ, & Dux Normanniæ & Aquitaniæ, & Comes Andegaviæ, Archiepiſcopis, Epiſcopis, Abbatibus, Comitibus, Baronibus, Juſtitiariis, & omnibus miniſtris & fidelibus ſuis, Francis, & Anglis, & Hibernienſibus, Salutem. Sciatis me conceſſiſſe & præſenti chartâ meâ confirmâſſe Roberto filio Stephani & Miloni de Cogan, cuſtodiam civitatis meæ de Cork, cum Cantredo quod erat Hoſtmanorum ejuſdem civitatis, quod retineo in manu mea. Ac † habenda & tenenda ea ſimul, quam diù mihi placuerit, & bene mihi ſervient. Prætereà dono iis &

† There ſeems to be ſomething wrong here; but, not knowing how to mend it, I give it as it ſtands in Ware.

concedo

concedo, & præſenti charta confirmo, totum Regnum de Cork, exceptis dicta Civitate & Cantredo prænominato, quæ in manu mea retineo, ipſis & hæredibus ſuis, * tenenda de me & Johanne filio meo & hæredibus noſtris, per rectas deviſas, verſus Cap. S. Cerdani, ſuper maritima, & verſus Limericum & alias partes, & uſque aquam proximam de Liſmore, quæ fluit inter Liſmore & Cork & deſcendit in mare, per ſervitium 60 Militum, inde mihi et Johanni filio meo & hæredibus noſtris faciendum; a præfato Roberto & hæredibus ſuis ſervitium 30 militum faciendum; & à præfato Milone & hæredibus ſuis, 30. Quare volo & firmiter præcipio quod prænominati Robertus & Milo cuſtodiam ſupradictæ Civitatis & Cantredi prædicti habeant & teneant, ſicut ſuprà dictum eſt. Et quòd iidem & hæredes eorum poſt ipſos, totum regnum prædictum, exceptis ſupradicta civitate & præfato cantredo, quæ in manu mea retineo, habeant & teneant, de me & Johanne filio meo, & hæredibus noſtris, per rectas deviſas, ſicut ſuprà determinatum eſt, benè & in pace, liberè & quietè, integrè, plenariè, & honorificè, in boſco & plano, in pratis & paſcuis, in aquis & molendinis, in vivariis & ſtagnis & piſcariis, in viis & ſemitis, & in omnibus aliis locis & aliis rebus ad illud pertinentibus, cum omnibus libertatibus & liberis conſuetudinibus ſuis: Ita quod à prædicto flumine, quod fluit inter Liſmore & Cork, remaneat in manu mea tota terra uſque ad Waterford, cum ipſa Civitate de Liſmore, ad cuſtodiam de Waterford. Teſtibus Johanne Norwicenſi, Adamo de Sancto Aſapho, & Auguſtino Waterford. Epiſcopis; Richardo de Lucy, Willelmo filio Aldelmi Dapifero, Hugone de Lacy, Hugone de Burid, Rogero filio Remfye, Mauritio de Prendergaſt, Roberto Dene, Roberto filio Eliodori, Galfrido Poer, Hervæo de Monte-Mariſco. Apud Oxoniam.

* tenendum.

N° IV.

This refers to vol.iii. p.332.

Petrus Bleſenſis, Ep. lxxiii. *p.* 128.

Ad tres Epiſcopos Angliæ.

RICHARDUS Dei gratia Cantuar. Archiepiſcopus, totius Angliæ Primas, & Apoſtolicæ Sedis Legatus, Venerabilibus & dilectis fratribus R. Vintonienſi, G. Helienſi, I. Norvicenſi Epiſcopis, ſalutem & ſalubre conſilium.

In Eccleſia Anglicana damnoſa omnibus, & omnino damnanda conſuetudo invaluit, quæ, niſi per induſtriam veſtram fuerit omninò ſublata de medio, in enormi totius Cleri diſpendium vehementer excreſcet. Si Judæus aut laicorum viliſſimus occiditur, ſtatim ſupplicio mortis addicitur interfector: ſi quis verò ſacerdotem vel clericum minoris aut majoris ſtatus occiderit, Eccleſia ſola excommunicatione contenta, aut, ut verius loquar, contempta, materialis opem gladii non requirit. Scitis equidem, quod à Domino dictum eſt Moyſi, Maleficos non patieris vivere. Et, Apoſtolo teſte, Princeps gladium habet ad vindictam malefactorum, laudem verò bonorum. Sed & Dominus dicit, Qui vos tangit, me tangit. Et per prophetam, Nolite, inquit, tangere Chriſtos meos. Ubi igitur poſſet maleficium immanius & execrabilius inveniri, quàm graſſari in Chriſtos Domini, & in populum acquiſitionis, libera impunitatis audacia, gladium exercere? Accepta mihi eſſet ſententia excommunicationis in talibus, ſi timorem homicidis incuteret. Sed, culpis noſtris exigentibus, gladius Petri rubigine obductus eſt; et quia non poteſt incidere, datus eſt in contemptum. Si capra, ſi ovicula furto ſublata ſit vel occiſa, in hujus rei autorem, ſi lateat, ſententia excommunicationis emittitur: convictus verò aut confeſſus furcarum patibulo deputatur. Porro clerici vel Epiſcopi occiſores Romam mittuntur, eunteſque in deliciis, cum plenitudine Apoſtolicæ gratiæ, & majore delinquendi audacia revertuntur. *Talium vindictam exceſſuum Dominus Rex ſibi vindicat, ſed nos eam nobis damnabiliter reſervamus*, atque liberam præbentes impunitatis materiam in fauces noſtras laicorum gladios provocamus. Ignominioſum eſt, quod pro capra vel ovicula gravior, pro ſacerdote occiſo pœna remiſſior irrogatur. *Sed his & durioribus digni ſumus, qui juriſdictionem alienam & nobis omninò indebitam ambitione temeraria uſurpamus.* Nam & in corpore Decretorum, & in epiſtola ad Romanos hæc verba legiſſe meminimus, Sunt quædam enormia flagitia, quæ potius per mundi judices, quam per rectores & judices Eccleſiarum vindicantur: ſicut eſt, cum quis interficit Pontificem Apoſtolicum, preſbyterum, ſive diaconum, hujus reos reges & principes mundi damnant. Omnis equidem juſtitia ideò exercetur, ut debita quiete gaudeat innocentia, & malignantium temeritas refrenetur. *Veruntamen in hac juriſdictione maledicta, quam ambitiosè & ſuperbè præſumimus*, DEUM *offendimus, & Dominum Regem, viamque in clericos malignandi tutiſſimam laicis aperimus.* Nuper

apud

apud Vintoniam ſacerdos literaturæ commendabilis & converſationis honeſtæ malitiosè occiſus eſt à Guilielmo Frechet, & uxore ejus; nec illi maleficium diffitentur: prompti ſunt ergo curiam adire Romanam: nam confidit in ea cor viri ſui, atque in ſpecie & pulchritudine ſua intendit proſperè procedere, & de lenocinio uxoris in via, præter abſolutionis beneficium, fructus uberioris manipulos reportare. Vos ergò, dilectiſſimi fratres, huic publicæ peſti, dum in ſuo curſu eſt, maturiore conſilio ſtudeatis occurrere: nam ſi liberius aliquantulum & licentius evaſerit, periculum quod inter pauperes nunc verſatur noſtris in proximo cervicibus imminebit. Eccleſia juriſdictionem ſuam prius exerceat; & ſi illa non ſufficit, ejus imperfectum ſuppleat gladius ſæcularis. Hujus rei auctoritas e Synodo Urbani Papæ, & decreto Gregorii, ex epiſtola Nicolai ad Epiſcopos Galliarum, ex Concilio etiam Martini Papæ, & ex Concilio Carthaginen. III. & ex multis Sanctorum Patrum inſtitutionibus emanavit. Nec dicatur, quod aliquis puniatur propter hoc bis in idiſpum: nec enim iteratum videtur, quod ab uno incipitur, & ab altero conſummatur. Duo ſunt gladii, qui mutuum à ſe mendicant auxilium, atque ad invicem ſibi vires impartiuntur alternas, ſacerdotium regibus & ſacerdotibus regnum. Ideoque ſi ab altero ſuppletur alterius inſufficientia, non videtur duplex contritio, aut punitio combinata. Nam & illi, qui ad mortis patibulum ſunt damnandi, juxta Moguntinenſe Concilium, antequam ad tormenta ducantur per cordis contritionem & pœnitentiam ſpiritualiter puniuntur; nec duplicitatem contritionis inducit, ſed quædam præparatio eſt ad mortem pœnitentia & ſatisfactio quæ præcedit. *Reddentes igitur* DEO *quæ* DEI *ſunt, & Cæſari quæ ſunt Cæſaris, juxta petitionem Domini Regis, ei tantorum vindictam exceſſuum relinquamus:* reis autem in mortis articulo conſtitutis, quia ſententiam lati canonis incurrerunt, ſi abſolutionem poſtulaverint, & in hoc, & in aliis, quantum poſſumus, ſine ſcandalo & periculo Eccleſiæ, humanitatis conſilium miſericorditer impendamus. Publicè namque intereſt, ut materiali gladio cohibeantur qui nec Deum timent, nec deferunt Eccleſiæ, nec cenſuram canonum reverentur. Bene valete.

N° V.

This refers to vol. iii. p. 354, 355.

N° V.

Benedict. Abb. t. i. *p.* 365—368. *Hoveden, ad ann.* 1181.

Aſſiſa de Armis habend. in Anglia.

QUICUNQUE habet Feodum unius Militis, habeat Loricam & Caſſidem, Clypeam & Lanceam: Et omnis Miles habeat tot Loricas & Caſſides, & Clypeos, & Lanceas, quot habuerit Feoda Militum in Dominico ſuo.

Quicunque Liber Laicus habuerit in Catallo, vel in Redditu, ad valentiam 16 Marcarum, habeat Loricam, & Caſſidem, & Clypeum, & Lanceam.

Quicunque Liber Laicus habuerit in Catallo, vel Redditu, decem Marcas; habeat *Halbergellum* et *Capelet* Ferri et Lanceam.

Item, omnes Burgenſes et tota Communia Liberorum Hominum habeant *Wambais* & *Capelet* Ferri, et Lanceam.

Unuſquiſque autem illorum juret, quod infra Feſtum Sancti Hilarii hæc arma habebit, et Domino Regi Henrico, ſcilicet Filio Matildis Imperatricis, Fidem portabit; et hæc arma in ſuo Servitio tenebit ſecundum Præceptum ſuum, et ad Fidem Domini Regis & Regni ſui. Et nullus, ex quo arma hæc habuerit, ea vendat, nec invadiet, nec præſtet, nec aliquo alio modo à ſe alienet. Nec Dominus ſuus ea aliquo modo ab Homine ſuo alienet, nec per foriſ-factum, nec per donum, nec per vadium, nec aliquo alio modo.

Siquis hæc arma habens obierit, arma ſua remaneant hæredi ſuo. Si vero hæres de tali ætate non ſit, quod Armis uti poſſit, ſi opus fuerit, ille qui eum habebit in cuſtodia habeat ſimiliter cuſtodiam Armorum, et hominem inveniat, qui Armis uti poſſit in Servitio Domini Regis, ſi opus fuerit, donec hæres de tali ætate ſit, quod Arma portare poſſit, et tunc ea habeat.

Quicunque

Quicunque vero Burgenſis plura arma habuerit quam eum habere oportuerit ſecundum hanc Aſſiſam, ea vendat, vel det, vel ſic à ſe alienet alicui homini, qui ea in Servitio Domini Regis Anglia retineat. Et nullus eorum plura arma retineat quam eum ſecundum hanc Aſſiſam habere oportuerit.

Item nullus Judæus Loricam vel Habergellum penes ſe retineat; ſed ea vendat, vel det, vel alio modo à ſe removeat, ita quod remaneant in ſervitio Regis.

Item, nullus portet arma extra Angliam, niſi per præceptum Domini Regis; nec aliquis vendat Arma alicui, qui ea portet ab Anglia.

*Item, Juſticiæ faciant jurare per Legales Milites, vel per alios Liberos & Legales Homines de Hundredis, & de Viſnetis, & de Burgis, quot viderint expedire, quod qui habeant valentiam Catalli ſecundum quod eum habere opportuerit, Loricam, & galeam, & Lanceam, & Clypeum; ſecundum quod dictum eſt: ſcilicet, quod ſeparatim nominabunt eos omnes de Hundredis ſuis, & de Viſnetis, & de Burgis, qui habebunt ſexdecim Marcas, vel in Catallo vel in Redditu: Similiter, & qui habebit decem Marcas. Et Juſtitiæ poſtea omnes illos juratores & alios faciant inbreviari, qui quantum Catalli vel Redditus habuerint, et qui ſecundum Valentiam Catalli vel Redditus, quæ Arma habere debuerit. Et poſtea coram eis, in communi audentia illorum, faciant legere hanc Aſſiſam de Armis habendis, et eos jurare, quod ea arma habebunt ſecundum Valentiam prædictam Catallorum vel Redditus; et ea tenebunt in ſervitio Domini Regis, ſecundum hanc prædictam Aſſiſam, in præcepto & Fide Domini Regis Henrici filii Matildis Imperatricis, & Regni ſui.

Si vero contigerit, quod aliquis illorum, qui habere debuerint hæc arma, non ſit in Comitatu ad terminum, quando Juſticiæ in comitatu illo erunt, Juſticiæ ponant ei terminum in alio Comitatu coram eis. Et ſi in nullo Comitatu, per quos ituræ ſunt, ad eos venerit, et non fuerint in Terra iſta, ponant ei terminum apud Weſtminſter ad Octavas Sancti Michaëlis; quod tunc ſit ibi ad faciendum Sacramentum ſuum, ſicut ſe &

* The copy given of this aſſiſe by Benedictus Abbas appearing to be very faulty, I have corrected it in ſeveral places from that given by Hoveden; but cannot, from either of them, make out a clear ſenſe of the greater part of this clauſe; it being evident that ſome words are wanting, to complete and render it intelligible.

omnia

omnia ſua diligit. Et ei præcipiatur, quod infra feſtum prædictum Sancti Hilarii habeat arma ſecundum quod ad eum pertinet habendum.

Item, Juſticiæ faciant dici per omnes Comitatus, per quos ituræ ſunt, quod qui hæc arma non habuerint, ſecundum quod prædictum eſt, Dominus Rex capiet ſe ad eorum Membra; et nullo modo capiet ab eis Terram vel Catalla.

Item, nullus juret ſuper Legales & Liberos Homines, qui non habeat ſexdecim Marcas vel decem Marcas in Catallo.

Item, Juſticiæ præcipiant per omnes Comitatus, per quos ituræ ſunt, quod nullus, ſicut ſe ipſum & omnia ſua diligit, emat vel vendat aliquam Navem, ad ducendum ab Anglia; nec aliquis deferat vel deferri faciat Maireman extra Angliam. Et præcepit rex quod nullus reciperetur ad ſacramentum armorum niſi liber homo.

This refers to vol. iii. p. 364, 365.

N° VI.

Extract of a Letter from John of Saliſbury, to the archbiſhop of Sens, publiſhed among Becket's Epiſtles, lib. v. *tom.* 2. *epiſt.* 91.

SEDENT e regione blaſphemi, qui ſub nomine & honore Sacerdotali Sacerdotium perſequuntur, principibus adulantes, perſecutorum Eccleſiæ juſtificantes cauſam, exultantes in rebus peſſimus, ſcilicet quod poteſtatibus adſtiterunt adverſus Dominum & adverſus Chriſtum ejus, cujus ſanguis per eos effuſus, militum miniſterio, de terra clamat ad Dominum, magis quam ſanguis Abel juſti, quem frater ipſius interemit. Horum caput eſt ille Eboracenſis, quem vidiſtis & audiſtis palám in curia Archi-epiſcopum perſequentem, & qui indignus fuerat ore ſacrilego, quo necem Martyris procuravit, ipſius proferre nomen. Eum plane mendoſus & mendax jam inauditis coruſcantem miraculis, adhuc, ſicut ex literis ejus patet, nominat Pharaonem *. Sed non movemur, ſi flagi-

* This alludes to a letter from the archbiſhop of York to the biſhop of Durham and all the chapter of York, in which he complained very grievouſly of having been attacked in the court of Rome by the agents of Becket with the moſt venomous calumnies and lies, to hinder the pope from taking off the ſentence of ſuſpenſion, which his Holineſs had laid on him at their inſtigation. "Et quidem "primo paraverant laqueum ſuſpenſionis, quo dominus Papa, plus eorum ſuggeſtiones quam juris

tioſa

tioſa bellua Martyrem non honorat, quæ, ſicut opera manifeſta convincunt, Deum utique non veretur. Dicitur tamen quod parat ad curiam proficiſci, ut purget vitæ ſordidæ notam, quaſi homo qui juſtitiam fecerit, & non deliquerit judicium Dei ſui. Et, ne ipſius purgatio valeat impediri, procuravit ut nulli noſtratum liceat transfretare, niſi Domini Regis impetrata licentia. Quod quidem obtineri non poteſt, niſi præſtetur cautio, quod nihil queretur contra Martyris perſecutores. Quid ergo facient miſeri, zelantes legem, videntes juſtitiam opprimi, & ſibi exitum denegari. Sed certe verbum Dei non eſt alligatum, & vobis libertas eſt, & os patens ad Eccleſiam Romanam, & notiſſima veritas. Noviſtis enim Martyrem in vita ſua, noviſtis cauſam ejus, noviſtis & iſtum Caipham temporis noſtri, qui ſub ſpecie conquerentis perſuadebat expedire, ut unus moreretur aut caperetur, ne tota gens periret. Eratis in Anglia cum patruo veſtro Domino Vintonienſi, quando idem nunc Caiphas, tunc Archi-diabolus, Walterum illum, cujus adoleſcentis admodum venuſta facie inductus nefario concubitu nimis conſueverat delectari, hiſpidum & procaciori lingua evomentem probra, quæ in contumeliam naturæ perpeſſus fuerat, oculis orbari fecit. Et poſtmodum ſcelus arguentem idem Archi-diabolus, judicibus qui ſæcularia negotia exercebant corruptis, adegit ſuſpendio. Sic vir ille, non minus benignus quam pudicus, columbi ſui acceptavit affectum. Sic veteris Amaſii diu exhibitum obſequium remuneravit, ut primo ſtuprum inferret miſero, deinde miſeriori, quia de conſenſu tam ſordidæ immunditiæ pœnitebat, capulationem & oculorum avulſionem infigeret; & tandem miſerrimum, quia clamore, ut poterat, ſuas proteſtabatur anguſtias, ſuſpenſum in patibulo fecit jugulari. Hæc non fingimus, ſed in veſtram ſtudemus revocare memo-

" ordinum ſecutus me innodaverat: deinde ne quoquo modo ſolvi poſſet, iniquitatem iniquitati ad-
" dentes hinc maximorum virorum libellos (ſicut jam a pluribus retro annis inſtructi fuerant) con-
" quirebant, *inde peregrinorum et qui me nunquam viderant multitudinem ſubornabant, ut ea quæ non no-*
" *verant mentientes, apud ſummum Pontificem et curiam Romanam quocunquemodo famam onerarent.*
" Abſens eram, et qui ex parte mea in Curia pauci tantæ multitudini vix reſiſtere poterant *tam exqui-*
" *ſitis preſſi mendaciis*; maximè cum quidam, *ſolo habitu religioſi*, videntes eos proſperare in iniquita-
" tibus ſuis, cum illis currebant, et, neglecto Dei timore, ad everſionem dignitatis Eccleſiæ noſtræ,
" *unà cum meretricibus ſuis*, ne quis ſexus perſecutioni meæ deeſſet, multa dixerunt." He afterwards gives to their chief (whom John of Saliſbury here declares to be Becket) the name of *Pharao*; but ends with ſaying, that truth had diſpelled all theſe lies, and procured him abſolution. This letter was written a little before Becket's murder, and ſtands the 288th in the collection of John of Saliſbury's letters, among which there are ſeveral not compoſed by him, but of which he had copies.

riam, ſi tamen excidere potuerunt, quæ velut ungue adamantino, multis & magnis, & plenis fide viris ſæpius referentibus, in pectore noſtro profundius reſederunt. Nam uſque in hodiernum diem in opprobrium Eccleſiæ, Deique contemptum, triſtis hæc hiſtoria cantitatur. Sed fortaſſe quæret aliquis, quomodo tantum flagitium, & tam manifeſtum, impune pertulerit, præſertim beato Eugenio tunc ſummum adminiſtrante pontificatum. Et quidem, ut indubitanter credimus, nullo modo evaſiſſet, *niſi per beati Thomæ induſtriam*, qui per venerabiles viros Hilarium Ciceſtrenſem & Johannem Vintonienſem Epiſcopos effecit, ut ejus a bonæ memoriæ Theobaldo Cantuarienſi Archi-epiſcopo purgatio recipereretur. Deinde ſentiens Eccleſiam Romanam indignatam eſſe ſuper exhibitione purgationis factæ clam, utpote in capitulo Monachorum, non in ſolemni conventu præſtitæ, ſtatui ſuo conſulens, Romam profectus eſt ad illum famoſiſſimum negotiatorem, quem ſemper odio habuit anima veſtra, Gregorium Sancti Angeli Cardinalem. Et per illum, in multitudine ſparſorum in curia munerum, obtinuit, ut juſtificatus rediret in domum ſuam: incertum qua Dei diſpenſatione reſervatus ad majora flagitia perpetranda, ſicut præſens teſtatur dies, quo ſanguine innocentis purpuratur eccleſia, *qui ſceleratum iſtum, eo quod concurialis ejus erat, fraterna charitate compatiens, & frugem vitæ melioris expectans, debitæ ſubtraxit ultioni.*

This refers to vol. iii. p. 404.

N° VII.

From Benedict. Abb. t. ii. *p.* 417, 418, 419.

EODEM anno, poſt obitum Tomæ filii Bernardi, qui poſt diſceſſum Alani de Nevill, fuit Magiſter Foreſtarius & Juſtitiarius per totam Angliam, Dominus Rex diviſit Foreſtas ſuas in Anglia in plures partes, et unicuique parti præfecit quatuor Juſticiarios, ſcilicet duos Clericos & duos Milites. Et conſtituit in unaquaque parte duos Servientes de Domo et Familia ipſius, Cuſtodes Venationis & Viridis ſuper omnes Foreſtarios alios, tam Regis quam Baronum & Militum. Et poſtea fecit prædictos Juſticiarios & Servientes jurare, tactis Sacro-ſanctis Evangeliis, quod ſubſcriptas Aſſiſas de Foreſta ſervarent.

Aſſiſæ de Foreſta.

" Prima Aſſiſa Henrici Regis. Primùm, defendit, quod nullus ei " foris-faciat de Venatione ſua; nec de Foreſtis in ulla re; et ne confi- " dant quod habeant Miſericordiam de illis propter Catalla ſua, ſicut uſ- " que huc. Nam ſi quis ei amodo foris-fecerit, et ratione convictus fu- " erit, plenam vult de eo Juſtitiam fieri, qualis fuit facta tempore " Henrici, avi ſui, ut amittat Oculos & Teſticulos.

" Item, defendit, quod nullus habeat Arcus, neque Canes, neque Le- " porarios, in Foreſta ſua, niſi habeat ipſum Regem ad Warantum; " vel aliquem, qui warantizare poſſit.

" Item, quod nullus vendat vel donet ad vaſtum vel deſtructionem " Boſci ſui, qui ſit in Foreſta Regis; ſed bene concedit, quod Comites " & Barones, et in Franco tenentes, capiant de Boſcis eorum quod neceſſe " fuerit ſine Waſto; et hoc per Viſum Foreſtarii Regis.

" Item, Præcepit Rex, quod ſui Foreſtarii capiant curam de Fore- " ſtariis Militum & aliorum qui habent Boſcos in Foreſtis ſuis; et quod " Boſci non deſtruantur. Nam ſciant bene illi, quorum Boſci fuerint " deſtructi, quod de ipſis, vel de illorum Terris, capietur Emendatio, " et non de alio.

" Item, quod Foreſtarii ſui jurent, quod ſecundum omne poſſe ſuum " tenebunt iſtam Aſſiſam de Foreſtis ſuis; et quod non vexabunt Mi- " lites, neque alios probos Homines, de hoc quod Rex concedit eis de " Foreſtis ſuis."

N° VIII.

This refers to vol. iii. p. 481, 482.

From Diceto Imag. Hiſt. p. 636, 637, 638.

VENERABILI & excellentiſſimo Principi Frederico Dei gratia Romanorum Imperatori ſemper Auguſto, Henricus eadem gratia Rex Angliæ, Dux Normanniæ & Aquitaniæ, & Comes Andegaviæ, in eo regnare per quem reges regnant.

Quoniam imperatoriam Majeſtatem ſuper his congratulari confidimus, quæ ad honorem Dei & exaltationem eccleſiæ ſuæ diſponuntur, Excellentiæ veſtræ notum facimus, nos & kariſſimum nobis in Chriſto amicum Philippum regem Francorum, & multos proceres utriuſque regni, cum

magna armatorum multitudine, crucem ad ſervitium Dei aſſumpſiſſe, hoc præcipue intendentes, ut, Deo duce, terra ſancta noſtræ humilitatis adminiculo ab his oppreſſionibus relevetur, quibus hodie ad opprobrium Chriſtiani nominis dinoſcitur miſerabiliter prægravari. Et quoniam in præpoſito habemus per terras imperii veſtri tranſire, rogamus vos tanquam Chriſtianiſſimum principem, quatenus ſecurum tranſitum nobis, & iis qui nobiſcum votum ſimile obtulerunt, in terris veſtræ poteſtati ſubjectis præbeatis, & mercatum victualium, locis competentibus, in occurſum noſtrum convenire faciatis, ad honorem Dei & veſtrum & totius imperii ſecuritatem. Quid autem ſuper hoc veſtræ placuerit Majeſtati *, per fidelem & familiarem clericum noſtrum Ricardum Barre, Lexovienſem archidiaconum, quem ob hanc cauſam ad veſtram deſtinavimus præſentiam, veſtra nobis ſignificare velit dignatio.

Fredericus Dei gratia Romanorum imperator ſemper Auguſtus *kariſſimo fratri Henrico illuſtri regi Angliæ* ſalutem & dilectionem.

Noveris laudabile propoſitum tuum quod te ſuſcepiſſe ſuggeris, ad ſervicium Dei faciendum, nobis plurimum complacere; unde ad illud ſervicium perficiendum tibi conſilium & auxilium in Chriſti nomine promittimus, forumque victualium tibi & illis qui tecum ad Dei honorem militabunt prompta voluntate & prono deſiderio, Deo cooperante, ſecundum petitionem tuam, providebimus, maxime autem in ſocietate kariſſimi amici noſtri Philippi regis Francorum, & ea durante gratia qua nos invicem intelligimus aſſociatos.

† Iſaac. Glorioſo & potentiſſimo Principi † Curſac Angelo Dei gratia Romanorum Imperatori ſemper Auguſto, a Deo coronato, Henricus eadem gratia Rex Angliæ, Dux Normanniæ & Aquitaniæ, & Comes Andegaviæ, gaudium & gloriam cum ſalute ſempiterna.

Quoniam imperii veſtri potentiam ampliſſimam ad defenſionem fidei catholicæ, & ad honorem Chriſtiani nominis credimus & confidimus ſpecialiter & laudabiliter invigilare, non immerito Gloriæ veſtræ ea ſignificanda duximus, quæ ad ſacroſanctæ eccleſiæ honorem & exaltationem

* The title *Your Majeſty (Veſtra Majeſtas)* was not given to any king in that age, but only to Emperors, and, in ſome letters from eccleſiaſticks, to *their Emperor* the Pope. Geoffry biſhop of Lincoln in a letter to the archbiſhop of Canterbury ſays, "Placuit *Majeſtati Apoſtolicæ* veſtræ injungere *ſancti-* "*tuti*, ut me, &c." See Hoveden ad ann. 1181. But by theſe letters we find that the titles of *Your Excellency (Excellentia veſtra) Your Highneſs (Sublimitas veſtra) Your Glory (Gloria veſtra)* and *Your Eminence (Eminentia veſtra)* were alſo given to Emperors together with that of *Your Majeſty*.

divina

divina providentia, in regno noſtro, & in regno kariſſimi nobis Philippi illuſtris regis Francorum, voluit operari. Imperatoriæ itaque notificamus Majeſtati, nos & prænominatum illuſtrem regem Francorum, procereſque utriuſque regni, cum innumera bellatorum multitudine, ſignaculum crucis ſuſcepiſſe, & propoſitum firmaſſe, ut omnipotenti Deo ſerviemus ad confuſionem inimicorum ſanctæ crucis in ſancta terra Jeruſalem, ut noſtræ humilitatis interventu terra illa, diminutâ Paganorum ſpurciciâ, priſtinum decorum & debitum ſplendorem, Deo annuente, recipiat. Quod quoniam in omni noſtro propoſito, & maxime in famulatu Dei omnipotentis, Excellentiæ veſtræ conſilio præmuniri volumus & juvari, attentius exoramus quatenus oculos Majeſtatis veſtræ ad nos & ad principes, & ad alios qui Deo duce nobiſcum militabunt, reducatis, nobiſque Sublimitas veſtra ſecurum & quietum tranſitum, & victualium copioſum mercatum in terris et provinciis nobiliſſimo imperio ſubjacentibus, liberaliter & benigne provideat, ad honorem Dei omnipotentis, & gloriam veſtri nominis, & ad imperii ſecuritatem, quam de pacifico ingreſſu noſtro & de tranſitu innocuo præſtare parati ſumus, prout Ricardus Barre Lexovienſis archidiaconus, clericus noſter fidelis & familiaris, Eminentiæ veſtræ ex parte noſtra plenius exponet.

Curſac Iſaac (Angelus) Dei gratia Romanorum Imperator ſemper Auguſtus, a Deo coronatus, Henrico eadem gratia regi Angliæ, Duci Normanniæ & Aquitaniæ, & Comiti Andegaviæ, ſalutem & benevolentiam.

Rogavit *nobilitas tua*, ut noſtri imperii conſilium & auxilium habeat in ſervitio Dei omnipotentis contra Saracenos, & ut ſecurum haberes tranſitum cum exercitu tuo, et ſufficientem mercatum victualium, per loca imperii tranſiturus. Ad quod reſpondemus: Propoſitum tuum bene placitum eſt Deo et imperio noſtro, quoniam laudabile eſt, & quod omnes Chriſtiani laudare debent, & adjuvare. Ideoque prudentiæ tuæ & * probitati gratulantes, tibi & his qui in comitatu tuo venturi ſunt ſecurum tranſitum & copioſum concedimus mercatum, ſecundum formam literis tuis inſertam, unde ad præſentiam tuam mittimus Conſtantinum & Nicholaum miniſtros ſacri palatii, ut tecum tractent de ſecuritate & forma pacis ſervandæ imperio, et, ſi eam præſtiteris ſecuritatis formam quam ipſi portant, centies milies bene veneris, ſicut alter dominus & ſocius imperii,

* *Probitas* here ſignifies Valour, as it commonly does in the Latin of that age, being uſed as ſynonimous to *Virtus*.

et

et tu cum toto comitatu tuo fideliter conſilio imperii inſtructus eris qualiter inſidias Turcorum debeas declinare, & quâ cautelâ eas poſſis invadere & expugnare *.

This refers to vol. iii. p. 411.

N° IX.

From Rymer's Fœdera, p. 57.

Hoc eſt Teſtamentum illuſtriſſimi Regis Henrici Secundi Angliæ.

1. HENRICUS, Dei gratia, Rex Angliæ, Dux Normanniæ & Aquittaniæ, Comes Andegaviæ, Henrico Regi, & Ricardo, & Galfrido, & Johanni Filiis ſuis; Archiepiſcopis, Epiſcopis, Abbatibus, Archidiaconis, Decanis, Comitibus, Baronibus, Juſticiariis, Vicecomitibus, Miniſtris, & omnibus Hominibus & Fidelibus ſuis, tam Clericis, quam Laicis, totius Terræ ſuæ citra mare & ultra, ſalutem. Notum vobis facio quod apud Waltham, præſentibus Epiſcopis,

R. Wintonenſi, &
J. Norwicenſi, &
G. Cancellario Filio meo, &
Magiſtro Waltero de Conſtantiis Archidiaconis Oxon. &
Godefrido de Luci, Archidiacono de Derbi, &
Ranulfo de Glanvilla, &
Rogero Filio Reimfridi, &
Hugone de Morewic, &
Radulfo Filio Stephani Camerario, &
Willielmo Rufo,

feci diviſam meam de quadam parte pecuniæ meæ in hunc modum.

2. Domui Militiæ Templi Jeruſalem 5000 Marcas Argenti; Domui Hoſpitali Jeruſalem 5000 Marcas Argenti; & ad communem defenſionem Terræ Ieroſolimitanæ 5000 Marcas Argenti, per manum Magiſtrorum Templi & Hoſpitalis Jeruſalem, & viſum eorundem habendas,

* It appears from the Life of Saladin, often quoted in this volume, that, when this letter was written, this emperor (Iſaac Angelus) was in cloſe confederacy with that prince.

præter

præter pecuniam illam, quam prius prædictis domibus Templi & Hoſpitalis commiſeram cuſtodiendam; quam ſimiliter dono ad defenſionem ipſius Terræ Ieroſolomitanæ, niſi eam in vita mea repetere voluero.

3. Et aliis domibus Religioſis totius Ieroſolimæ & Leproſis, & Incluſis, & Heremitis ejuſdem Terræ, 5000 Marcas Argenti, dividendas per manum Patriarchæ Jeruſalem, & viſum Epiſcoporum Terræ Jeroſolimæ, & Magiſtorum Templi & Hoſpitalis.

4. Domibus Religioſis Angliæ, Monachorum, Canonicorum, Sanctimonialium, & Leproſis, & Incluſis, & Heremitis ipſius Terræ, 5000 Marcas Argenti, dividendas per manum & viſum

R. Archiepiſcopi Cantuar. &
R. Winton, &
B. Wigorn. &
G. Elyen. &
J. Norwic. Epiſcoporum, &
Ranulf de Glanvilla Juſticiarii Angliæ.

5. Domibus Religioſis Normanniæ, Monachorum, Canonicorum, Sanctimonialium, & Incluſis, & Heremitis ejuſdem Terræ, 3000 Marcas Argenti, dividendas per manum & viſum

Archiepiſcopi Rothomagenſis, &
Baiocenſis, &
Abrincenſis, &
Sagienſis, &
Eboricenſis Epiſcoporum.

6. Domibus Leproſorum ipſius Terræ, 300 Marcas Argenti per manum & viſum prædictorum dividendas.

7. Monialibus Moretoniæ 100 Marcas Argenti.

8. Monialibus de Viliers extra Faleiſiam 100 Marcas Argenti.

9. Domibus Religioſis Terræ Comitis Andegaviæ Patris mei (exceptis Sanctimonialibus de ordine Fontis Ebraldi) mille Marcas Argenti, per manus Epiſcoporum Cenomanenſis & Andegavenſis dividendas; ipſis autem Sanctimonialibus Fontis Ebraldi, & Domibus ipſius ordinis, 2000 Marcas Argenti, dividendas per manum & viſum Abbatiſſæ Fontis Ebraldi *:

* This great legacy was given to this convent by Henry, becauſe he intended to be buried in their church.

10. Sancti-

† *Britanniæ* here means Bretagne.

10. Sanctimonialibus Sancti Sulpitii Britanniæ †, 100 Marcas Argenti.

11. Domui & toti ordini Grandis Montis 3000 Marcas Argenti.

12. Domui & toti Ordini de Chartuſa, 2000 Marcas Argenti.

13. Domui Ciſtertii et omnibus Domibus ipſius Ordinis (exceptis Domibus ejuſdem Ordinis quæ in Terra mea ſunt, quibus diviſam meam feci) 2000 Marcas Argenti, dividendas per viſum & manum Abbatis Ciſtertii & Clarevallis.

14. Domui Cluniaci 1000 Marcas Argenti, præter hoc quod eidem Domui accommodavi, quod ei perdono, niſi in vita mea repetere voluero.

15. Domui Majoris Monaſterii perdono 1000 Marcas Argenti quas ei commodavi, niſi eas in vita mea repetere voluero.

* *Marcilli.* See Gervaſe col. 1460.

16. Sanctimonialibus de Maitilli * 100 Marcas Argenti.

† *Præmonſtrato.*

17. Domui de Præmuſtrato † & toti Ordini (exceptis Domibus ejuſdem Ordinis quæ in Terra mea ſunt) 200 Marcas Argenti.

18. Domui de Arroais & toti Ordini (exceptis Domibus ejuſdem Ordinis Terræ meæ) 100 Marcas Argenti.

19. Ad maritandas pauperes & liberas Fœminas Angliæ, quæ carent auxilio, 300 Marcas Auri, dividendas per manum & viſum

R. Wintonienſis, &
B. Wigorn. &
G. Elyenſis, &
J. Norwicenſ. Epiſcoporum, &
Ranulfi de Glanvilla.

20. Ad maritandas pauperes & liberas Fœminas Normanniæ, quæ carent auxilio, 100 Marcas Auri, dividendas per manum & viſum

Rothomagenſis Archiepiſcopi, &
Abrincenſis, &
Sagienſis, &
Ebroicenſis Epiſcoporum.

21. Ad maritandas pauperes & liberas Fœminas de Terra Comitis Andegaviæ Patris mei 100 Marcas Auri per manum & viſum

Cenomanenſis & Andegavenſis
Epiſcoporum dividendas.

22. Hanc autem diviſam feci in prædicto loco, Anno incarnationis Domini MCLXXXII. Quam vobis, Filiis meis, per fidem quam mihi debetis, & ſacramentum quod mihi juraſtis, præcipio ut firmiter & in-

violabiliter

violabiliter teneri facietis, & quod ſuper eos, qui ipſam fecerint, manum non apponatis: & quicunque contra hoc venire præſumpſerit, indignationem & iram omnipotentis Dei, et maledictionem ipſius Dei et meam incurrat.

23. Vobis etiam Archiepiſcopis & Epiſcopis mando, ut, per ſacramentum, quod mihi feciſtis, et fidem quam Deo et mihi debetis, in ſynodis veſtris, ſolempniter accenſis candelis, excommunicetis, et excommunicari faciatis, omnes illos qui hanc diviſam meam infringere præſumpſerint; & ſciatis quod dominus Papa hanc diviſam meam ſcripto & ſigillo ſuo confirmavit ſub interminatione Anathematis.

N° VIII.

This refers to vol. iii. p. 485.

From Gervaſe's Chronicle, col. 1503.

R. De Glanvilla Abbati de Bello Salutem. Præcipio tibi ex parte Domini Regis per fidem quam ei debes, et per Sacramentum quod ei feciſti, ut nullo modo procedas in causâ quæ vertitur inter monachos Cantuarienſes et Dominum Cantuarienſem Archiepiſcopum, donec inde mecum locutus fueris. Teſte Willielmo de Glanvillâ per præceptum Domini Regis de ultra mare. Et, omni dilatione et occaſione remota, ſis ad me apud Londoniam, proximo die Sabbati poſt feſtum Sanctæ Margaritæ Virginis, mecum inde locuturus. Teſte eodem apud Weſtmonaſterium.

*** Whether other writs of a like nature were ſent to the abbots of Feverſham and St. Auguſtin's, who were joined by the pope in commiſſion with the abbot of Battel, or whether it was deemed ſufficient to ſend this to him as the chief of the three, and, perhaps, the only one willing to exerciſe his authority, I do not find.

I have not ſwelled this Appendix with the proceedings in the cauſe between the kings of Caſtile and Navarre; becauſe they are to be found, not only in Rymer, but likewiſe in almoſt all the hiſtories of thoſe times, and are of no ſuch importance to the affairs of this kingdom, as to require the particular inſpection of the reader in the original words of the record. Neither will I add here (as I once intended to do) any remarks on the general aſſemblies or councils of the French nation under the firſt and ſecond races of their kings; becauſe I find it fully done by that excellent writer, Dr. W. Robertſon, in the firſt vol. of his Hiſtory of the Emperor Charles V. (ſee Proofs and Illuſtrations, note xxxvii. from p. 355 to 365 incluſively.) Nor will I ſay more to prove, that the book aſcribed to Glanville was not copied from the *Regiam Majeſtatem* of the Scotch; as that ſubject, ſince I publiſhed the former part of this work, has been learnedly and ably diſcuſſed by Sir David Dalrymple. (See an Examination of ſome of the arguments for the High Antiquity of *Regiam Majeſtatem.)*

Benedict abbot of Peterborough, and, after him, Hoveden, mention a ſtatute made abroad by King Henry the Second, in the year 1177, to this effect: "Ne quis pro debito Domini res hominis capere præſumat, "niſi homo ejuſdem debiti debitor aut plegius extiterat: ſed redditus quos homines reddere debent "Dominis ſuis, reddantur creditori Dominorum ſuorum, et non Dominis. Cæteræ vero res hominum "propriæ ſint in pace, neque eas pro Dominorum debitis liceat cuique tradere." To which both writers add,

add, "Hoc ſtatutum et conſuetudinem ſtatuit Dominus Rex, et teneri præcepit in omnibus villis ſuis, et "ubique in poteſtate ſuâ, ſcilicet in Normanniâ, et Aquitaniâ, et Andigaviâ, et Britanniâ, generale et "ratum." Sir H. Spelman, in his Codex Legum Veterum ſtatutorum Regni Angliæ, gives this ſtatute with theſe words, "Hoc ſtatutum, ſigillo ſuo roboratum, rex præcepit per omnes ditiones ſuas *tranſmarinas* "cuſtodiri. Quære, an per *cismarinas*." And he had good cauſe for this doubt, as the words of both hiſtorians determine the extent and operation of the law to Henry's dominions beyond ſea, *ſcilicet in Normanniâ, et Aquitaniâ, et Andegaviâ, et Britanniâ*. Here is no mention of England; for *Britannia* means Bretagne (or Britany) in the writers of that age. Thus the abbot of Peterborough ſays a little before, "Et cum applicuiſſet (rex) miſit Gaufridum filium ſuum in *Britanniam*, ad debellandos "inimicos ſuos *Britanniæ*." This paſſage therefore does not contain any proof (as ſome modern writers ſuppoſe) that the Engliſh were bound in that age by ſtatutes made abroad, to which the parliament of England had not conſented.

N° IX.

THAT the account of the times treated of in this work may be rendered more compleat, ſome events appertaining to natural hiſtory during that period, viz. from the death of Edward the Confeſſor to that of Henry the Second, are given here, in the words of the ancient Engliſh hiſtorians, by whom they are related.

Florentius Wigornienſis, ad ann. 1066.

Eodem anno cal. Maii ſtella Cometes, non ſolum in Angliâ, ſed etiam ut fertur, per totum mundum viſa, per ſeptem dies ſplendore nimio fulgebat.

Chronicon Johannis Brompton, ad ann. 1074.

His diebus, in confinio Normanniæ et Britanniæ, mulier quædam erat, quæ duo capita, quatuor manus, et omnia uſque ad umbilicum habebat dupla, inferius vero ſimpla. Ridebat, comedebat, et loquebatur pars una; flebat, eſuriebat, et tacebat pars altera. Poſtremo, unâ defunctâ, altera fere triennio (*triduo*) ſupervixit; donec præ mole ponderis, et putredine, et fœtore mortui corporis, ipſa defecerit *.

* The Philoſophical Tranſactions for the year 1757, vol. L. p. 311, et ſequent. give an account of a conjunction, ſomewhat ſimilar to this, of two Hungarian ſiſters. But thoſe were only joined at the bottom of their backs, and had each of them two legs; whereas theſe, below the navel, made only one body, according to the writer here cited. The Hungarian ſiſters died in their two and twentieth year, at the ſame inſtant of time. How long *theſe* lived, we are not told; but it is ſaid that one of them outlived the other *three days* (for I take the word *triennio* to be an error of the preſs, or of the MSS. and the true reading to be *triduo.*) The circumſtance of the one eating, and laughing, and ſpeaking, while the other wept, or was ſilent, or faſted, (which ſhews two diſtinct wills and powers of action) is the ſame in both relations.

M. Weſtmon. Florilegus ſays, "Anno gratiæ 1076 ſexto kal. Aprilis terra tremuit, et factus eſt generalis terræ motus in Angliâ, et gelu magnum, glacieſque validiſſima a kal. Novembris uſque ad medium Aprilis.

Anno gratiæ 1181 factus eſt terræ motus, cum terræ mugitu terribili in totâ Angliâ, contra ejus ſolitum curſum naturæ.

Willielmi Malmeſburienſis de Willielmo I^mo, l. iii. ad ann. 1087, 1088.

Præterea anno antequam moreretur proximo, mortalitas hominum et jumentorum, vis tempeſtatum frequens, violentia fulgurum quantam nemo viderat, nemo audierat. Illo quoque anno quo obiit, promiſcua febris pluſquam dimidiam partem plebis depaſta, adeo ut plures incommoditas morbi extingueret; deinde pro intemperie aeris fames ſubſequuta vulgo irrepſit, ut quod febribus erat reliquum, ipſa corriperet.

Ibidem de Willielmo II^do, ann. D. 1089.

Secundo anno regni ejus terræ motus ingens totam Angliam exterruit; tertio idus Auguſti, horrendo miraculo, ut ædificia omnia eminus reſilirent, et mox priſtino more reſiderent. Secuta eſt inopia omnium fructuum, tarda maturitas frugum, ut vix ad feſtum Sancti Andreæ meſſes reconderentur.

The ſame earthquake is mentioned by Florence of Worceſter, and Simeon of Durham, in theſe words, "Eodem anno, tertio idus Auguſti, Sabbato, "circa horam diei tertiam, terræ motus permagnus extitit per Angliam."

Simeonis Dunelmenſis Hiſtoria, col. 217. ad ann. 1091.

XVI kalend. Novembris feria VI turbo veniens ab Affrico pervalidus Londoniæ pluſquam ſexcentas domos et eccleſias quamplures concutiendo diverberavit. In eccleſiam quoque Sanctæ Mariæ, quæ dicitur *ad arcum*, irruens, in eâ duos homines occidit, et tectum cum tignis in altum levans, et huc illucque diu per aëra ferens, tandem ſex de tignis, eo ordine quo tecto prius infixa erant, tam altè in terram defixit, ut de quibuſdam eorum ſeptima, de quibuſdam vero octava pars appareret. Erant enim 27 vel 28 pedum longitudinis.

The account given of the violence of this ſtorm or hurricane by W. of Malmeſbury is much the ſame. Inſtead of *diverberavit* he uſes the word *effregit*, but afterwards adds, *Cumulabantur eccleſiæ cum domibus, maceriæ cum parietibus*, which ſeems to imply that many houſes and

 churches

churches were, not only ſhattered, but blown down. He only differs from the other hiſtorian above-cited in mentioning four beams inſtead of ſix, as driven into the earth from the roof of the church of St. Mary le Bow, making them but ſix and twenty feet long, inſtead of twenty ſeven or twenty eight. His words are theſe: "*Quatuor enim ligna, ſex et viginti* "*pedes longa, tantâ vi in humum impacta ſunt, ut vix quatuor pedes ex-* "*tarent. Notabile viſu quomodo ſtratæ publicæ duritiem perruperint, eo* "*ibi ordine poſita, quo in tecto manu artificis fuerant locata, quoad, ob im-* "*pedimenta tranſeuntium, ad planitiem terræ ſunt deſecta, quod aliter* "*erui nequirent.*" The aſtoniſhing part of both theſe relations is the mighty force of the wind in driving beams ſo far into the earth, which, however, is not incredible. But what is ſaid by both authors of the order in which they were placed is to be conſidered as a mere addition of fancy, to make the wonder ſeem greater.

Willielmi Malmeſburienſis de Willielmo Secundo, l. iiii. ad ann. 1097.

Kalendas Octobris apparuit Cometes, quindecom diebus, majorem crinem emittens ad Orientem, minorem verſus Euro-auſtrum.

Sim. Dunelm. Hiſt. ad ann. 1099.

Tertio non. Novembris mare littus egreditur, et villas et homines quamplures, boves et oves innumeras demerſit.

Florentius Wigornienſis ad ann. 1106.

In primâ autem ſeptimanâ Quadrageſimæ, ſextâ feriâ, 14 kal. Martii, in veſpera, oſtenſa eſt quædam inſolita ſtella, et per 25 dies, eodem modo eâdemque horâ, viſa eſt lucere inter Auſtrum et Occidentem. Parva enim viſa eſt et obſcura; ſed ſplendor qui de eâ exivit valde erat clarus, et, quaſi ingens trabes, de orientali et aquilonari parte, claritas ingeſſit ſe in eandem ſtellam.

Ibidem, ad ann. 1109.

Stella Cometa menſe Decemb. viſa eſt circa Lacteum Circulum, crinem in Auſtralem cœli plagam dirigens.

H. Huntinddonenſis Hiſt. ad ann. 1109.

Hoc in anno apparuit Cometa quidam more inſolito. Cum namque ab Oriente inſurgens in firmamentum aſcendiſſet, regredi videbatur.

Sim. Dunelm. ad ann. 1110.

Terræ motus * Scrobbesbiriæ factus est maximus. Fluvius qui Trenta dicitur, apud Nottingham, à mane usque ad horam diei tertiam, spatio unius milliarii exsiccatus est, ita ut homines ficco vestigio per alveum incederent. Stella Cometa sexto idus Julii apparuit, et per tres hebdomadas lucere est visa. * Shrewsbury.

Ibidem, ad ann. 1114.

Fluvius Medeweage vocatus, per nonnulla milliaria, 6 idus Octobris, ita à se defecit, ut in medio alveo sui etiam parvissimæ naves ob penuriam aquæ elabi aliquatenus minimè possent. Thamesis nihilominus eodem illo die defectui patuit. Nam inter pontem et regiam turrim, sub ponte etiam, in tantum fluminis ipsius aqua diminuta est, ut non solum equi, sed et innumera hominum et puerorum multitudo illud pedibus transvaderet, aquâ vix genua eorum attingente. Duravit hic aquæ defectus à medio noctis præcedentis usque in profundas tenebras noctis subsequentis. Similem quoque aquarum defectum ipso die apud † Gernemutham, et in aliis locis per Angliam certo relatu contigisse didicimus. † Yarmouth.

Ibidem, ad ann. 1115.

Hoc anno hyems extitit asperrima, ita ut omnes ferè per Angliam pontes glaciè frangerentur.

H. Huntingdon, ad ann. 1115.

Cometa ingens in fine Maii apparuit.

Ibidem, ad ann. 1117.

Tonitrua verò et grandines in kalendis Decembris affuerunt, et in eodem mense cœlum rubens, quasi arderet, apparuit. Eodem autem tempore maximus terræ motus in Longobardiâ ecclesias, turres, et domos, et homines provolvens destruxit.

Roger de Hoveden describing the same earthquake, says, ann. 1117,

Apud Longobardiam magno terræ motu facto, et (ut testati sunt qui novere) quadraginta dierum spatio durante, plurima domorum ædificia cor-

corruerunt; et (quod viſu dictuque conſtat mirabile) villa quædam prægrandis mota eſt repente de ſtatu proprio, jamque ab omnibus in loco longe remoto conſiſtere cernitur.

Ibidem, ad ann. 1119.

Terræ motus magnus in pluribus locis per Angliam factus eſt quarto kalend. Octobris circa horam diei tertiam.

W. Malmeſburienſis Hiſt. Novellæ, l. i.

Anno 31 regni Henrici Primi infeſta lues domeſticorum animalium totam pervagata eſt Angliam. Plenæ porcorum haræ ſubito vacuabantur: integra boum præſepia repente deſtituebantur. Duravit ſequentibus annis eadem peſtis, ut nulla omnino totius regni villa hujus miſeriæ immunis alterius incommoda ridere poſſet.

In the 33d year of that King (A. D. 1133) the ſame author, after mentioning an eclipſe of the ſun, which happened two days before, ſays, "Et feriâ ſextâ proximâ, primo mane, tantus terræ motus fuit, ut penitus ſubſidere videretur, horrifico ſono ſub terris ante audito. Vidi "ego et in eclipſi ſtellas circa ſolem, et in terræ motu parietem domûs, "in quâ ſedebam, bifario impetu elevatum, tertio reſediſſe."

Ad ann. 1133.

The Continuator of Florence of Worceſter, ſpeaking of the eclipſe mentioned by William of Malmeſbury, ſays, "Eodem etiam die (quatuor nonas Auguſti) et eâdem horâ, ſtellæ plurimæ apparuere. Nec "non die eodem, cum naves ad prædicti regis tranſitum paratæ, in littore anchoris firmarentur, mari pacatiſſimo, ventoque permodico exiſtente, cujuſdam navis magnæ anchoræ à terrâ, quaſi vi aliquâ, ſubito "avulſæ ſunt, naviſque commota, multis mirantibus, eamque tenere "nitentibus, nec valentibus, ſibi proximam navem commovit; et ſic octo "naves vi ignotâ commotæ ſunt, ut nulla illarum illæſa remanſiſſet. "Sextâ autem feriâ ejuſdem ſeptimanæ, ſcilicet, 2 nonas ejuſdem menſis, "ſummo mane, in pluribus Angliæ partibus terræ motus factus eſt "magnus." In this account the moſt remarkable circumſtance is the great ſhip's being driven from its anchors in the port, without any wind or ſwell in the ſea, and moving ſeven others that were alſo anchored nigh

nigh to it, by ſome unknown force, which certainly muſt have been the firſt ſhock of the earthquake, that two days afterwards was felt at land, in different parts of England.

He alſo mentions a comet which appeared in the year 1132:
"Stella Cometæ 8 idus Octobris fere per ſeptem dies apparuit."

Continuatio ad Florentium Wigornenſem, ann. 1141.

His diebus horrendum quid in Wigornenſi contigit diœceſi, quod relatu dignum judicavimus. Siquidem quartâ feriâ ante octavam Aſcenſcionis Dominicæ, circà nonam diei horam, apud Villam quæ Waleſburna dicitur, diſtans ab Hamtoniâ, Epiſcopi Wigornenſis villâ, milliario uno, ventus turbinis vehemens exortus eſt, et caligo teterrima, pertingens a terrâ uſque ad cœlum, et concutiens domum Preſbyteri, cui nomen Leouredus, et officinas ejus omnes ſolo tenus proſtravit, et minutatim confregit; tectum quoque Eccleſiæ abſtulit, et ultra Avenam flumen projecit, domus etiam ruſticorum fere 50 ſimili modo dejiciens inutiles reddidit. Grando quoque ad magnitudinem ovi columbini cecidit, cujus ictibus percuſſa quædam fœmina occubuit.

Simeon Dunelm. Hiſt. continuata per Johann. Prior. Haguſtald. anno 1142.

Auditus autem fuerat ter terræ motus in eâdem urbe (Lincolniâ) infra natale Domini.

Gervaſius Dorobern. apud Decem Scriptores, ann. 1158.

Eodem anno terræ motus factus eſt in pluribus locis per Angliam, et fluvius Thamiſiæ apud Londinum deſiccatus eſt, ut ſiccis pedibus tranſiretur.

Ibidem.

Anno 1165, menſe Januario, terræ motus magnus factus eſt in Angliâ, nocte mediâ Converſionis S. Pauli Apoſtoli.

Hoveden, ann. 1165.

Eodem anno duo Cometæ apparuerunt ante ſolis ortum, una ad Auſtrum, altera ad Aquilonem.

Gervaſ.

Gervaſ. Dorobern. ann. 1173.

Idus Februarii apparuit in cœlo ſignum mirabile, nocte pluſquam mediâ. Nam rubor quidam videbatur in aëre, inter Orientem et Occidentem, in parte aquilonari. Radii autem albi per tranſverſum ruboris illius erant, qui nunc graciles in modum lancearum, nunc vero lati in modum tabularum, et nunc hic, nunc ibi, quaſi à terrâ ſurſum in cœlum erecti. Erant prædicti radii candidi, ut radii ſoliş cum denſiſſimam penetrant nubem. Subſecutus eſt ſplendor lucidus, auroræ ſimilis æſtivæ, cum in diem clarè luceſcit: poſtremo denſiſſima nubes ſubnigra, in eodem climate, quaſi à terrâ elevata eſt, quæ diem illum paulatim ſuccreſcens obumbravit *.

Annales Waverleienſes, ann. 1174.

Tota gens Angliæ tuſſi laborabat, et multi extincti ſunt in menſe Januarii.

Hoveden, ann. 1177 (1178).

Eodem anno factum eſt diluvium magnum in Hollande, ruptis foſſatis marinis, et diluit ferè omnem ſubſtantiam illius provinciæ, et homines multos ſubmerſit, ſeptimo idus Januarii.

Annales Waverleinſes, ann. 1178.

Erupit mare in Hollande, et ſubmerſit homines, villas, pecora innumerabilia, pridie id. Januarii.

Brompton, Chron. ann. 1179.

Infra verò idem natale Domini contigit apud Oxenhale quoddam mirabile a ſeculo inauditum, ſcilicet, quod, in ipsâ Domini Hugonis Epiſcopi Dunelmenſis culturâ, terra ſe in altum ita vehementer elevavit quod ſummis montium cacuminibus obæquaretur, et quod ſuper alta templorum pinnacula emineret; et illa altitudo ab horâ diei nonâ uſque ad occaſum ſolis permanſit. Sole vero occidente, eum tam horribili ſtrepitu cecidit, quod omnes cumulum illum videntes, et ſtrepitum

* It is hardly poſſible to give a more exact deſcription than this, which Gervaſe of Canterbury has delivered down to us, of an *aurora borealis*; a phænomenon then unuſual in theſe parts of the globe, but of late much more frequent.

caſûs

casûs illius audientes perterruit; unde multi timore illo obierunt: nam tellus eum abſorbuit, et puteum profundiſſimum ibidem fecit *.

Benedict. Abb. ann. 1185.

Interim terræ motus magnus auditus eſt fere per totam Angliam, *qualis nunquam antea in terrâ illâ auditus eſt.* Petræ enim ſciſſæ ſunt et domus lapideæ ceciderunt, et eccleſia Lincolnienſis metropolitana ſciſſa eſt à ſummo uſque ad dorſum. Contigit autem terræ motus ille in craſtino Paſchæ Floridi 17 kalendas Maii.

N. B. Hoveden confirms this account in almoſt the ſame words.

Diceto Imag. Hiſt. ad eundem annum.

Herbertus Anglicus natione, natus in Middleſex, tranſitum faciens in Siciliam, aſſenſu Regis Willielmi creatus eſt in Calabriâ Conſenſanus Archiepiſcopus. Cum autem illic terræ motus fieret magnus, prædictus Archiepiſcopus cum clero, cum familiâ, cum magnâ parte civium obrutus eſt. Caſtella pleraque ſubverſa, millia populorum contrita. Quædam civitas Adriatico Mari contigua, de nocte, populo quieſcente, corruit in profundum. Item in Angliâ circa partes Aquilonares factus eſt terræ motus. *In locis aliquibus ædificia corruerunt.*

Benedict. Abb. ad eundem annum.

Interim, kalendis Maii, ipſo die Apoſtolorum Philippi et Jacobi, circa meridiem, viſa eſt Eclypſis ſolis per totam Angliam, et, parvo tempore interlapſo, ſecuta ſunt tonitrua cum fulgure et tempeſtate, *et quamplures homines et animalia ictu fulmineo percuſſa interierunt, et domus multæ per diverſa loca Angliæ combuſtæ ſunt.*

Hoveden gives the ſame account of this extraordinary ſtorm of thunder and lightning, the greateſt we read of in England.

* Camden ſuppoſes three deep pits in a field near Darlington, which, in his time, the common people called *the Hell-kettles*, to be the remains of this very extraordinary riſing and ſinking of the earth. But, in the account above given, only one pit is mentioned; and, naturally, the falling in of an heap of ſoil ſo raiſed would form but one. This hill, probably, was puſhed up by ſubterraneous fires, like that in the Lucrine lake, now called *Monte Novo*: but what has filled up the chaſm cauſed by its ſinking, or divided it into different cavities, it is not eaſy to ſay. Britann. Biſhoprick of Durham.

Benedict. Abb. ad ann. 1187.

Eodem anno extitit per totam Angliam gravis et peſtifera hominum, et animalium, et pecudum mortalitas.

Idem, ad ann. 1188.

Eodem anno extitit magnus ſegetum defectus ferè per univerſum mundum, ita quod ſequenti æſtate multi fame perierunt.

Giraldi Cambrenſis Itinerarium Cambriæ, l. i. c. 12. ad ann. 1189.

*A place near St. David's in Wales.

Deinde per ſabulum de * Niwegal tranſivimus, ubi ex eâ tempeſtate, quâ prædictus Anglorum Rex, Henricus Secundus, in Hiberniæ finibus hyemavit, nec non et aliis ferè cunctis partium illarum portubus ab occidente marinis, res contigit non indigna memoriæ. Ex nimiâ nimirum præter ſolitum procellæ vehementiâ, ſabuloſis Auſtralis Cambriæ littoribus ſolo tenus ſabulo nudatis, longis operta retro ſeculis terræ facies apparuit; arborum in ipſum mare ſtipites ſtantium, undique præciſarum, ictuſque ſecurium tanquam heſterni; terra quoque nigerrima, lignaque truncorum hebeno ſimillima *: mirandis rerum mutationibus, olim navium via, nunc navibus invia, non littus, ſed lucus eſſe videretur, aut, forte, à diluvii tempore, aut, potius, longo poſt, antiquitus tamen præciſus: quoniam maris violentiâ ſemper excreſcentis, et terram amplius eluentis, paulatim abſumptus et abſorptus.

Contigit autem inauditâ tempeſtatis ejuſdem rabie, congros alioſque marinos piſces perplurimos, trans rupes maris altiſſimas, vi ventorum, intra dumeta projectos, à multis reperiri.

Ibidem, l. ii. c. 10.

Viſa eſt et in urbe Ceſtrenſi noſtris diebus mulier manca, manibus carens à navitate, cui tamen contrà defectum iſtum tale natura remedium dederat, ut pedes tam flexibiles, tam delicatè articulatos haberet, quod articulorum proceritate pariter et flexibilitate, non minus ſubtiliter quam

* The trunks of trees found in the bogs and peet-pits of Ireland are of the ſame black colour.

aliæ

aliæ mulieres, acu facere conſuevit. Et quicquid filo ac forfice manibus fieri ſolet, citra defectum omnem, cum intuentium admiratione, pedibus iſta complet.

I omit many ſtories of monſtrous productions and other ſtrange things related by this author, whoſe fondneſs for *the marvellous* much impeaches his credit. But in what I have cited from him there is nothing incredible; and it may alſo be worth obſerving here, that, in the book above-cited, he deſcribes *Caſtors* or *Beavers* as being found in the Teivy, a river of South Wales, at the time when he wrote.

In tranſcribing the accounts which contemporary writers give of the great inundation in Holland, A. D. 1175, I overlooked the deſcription of it in William of Newbury, which is as follows: "Oceanus, tanquam pecca-
" tis hominum irritatus, plus ſolito efferbuit, ruptiſque in Hollandiâ re-
" pagulis, olim contra tempeſtivos undarum impetus præparatis, eandem
" humilem planamque regionem, ſeptimo idus Januarii, violentus
" irrupit, jumenta ferè omnia, hominum vero multitudinem, necavit;
" reliquis aſcensu vel arborum vel domorum ægrè ſalvatis; et quaſi poſt
" biduum furore ſatiato in ſemet ipſum rediit; cujus, nimirum, idcirco
" ſuprà modum fuit hominibus et jumentis exitialis irruptio, quia tanquam
" fur everſor nocturnus adveniens provideri et præcaveri non potuit."

*** The reader will obſerve, that through the courſe of this work I compute the years as beginning on the firſt of January. It will alſo be proper to note, that in quoting William of Malmeſbury, Henry of Huntingdon, and Roger de Hoveden, I follow the edition of Sir H. Saville; and in citing Glanville, the edition of the year 1604; but I have corrected many errors in the latter by the Cotton and Harleian MSS. It would be a uſeful work if ſome ſtudent in the law would give us a new edition of that valuable treatiſe with the neceſſary corrections. Moſt of the faults in the printed copies ariſe from falſe ſtops, which a little care would mend. In citing Ware, I follow the London edition of his original work in Latin, printed A. D. 1654. I have made little or no uſe of the Annals of Aquitaine, or Angentré's Hiſtory of Bretagne; as they are late compilations, of no authority in themſelves, and often differing from the beſt contemporary writers.

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Lacy, Hugh de, ſurrenders the cuſtody of the city of Dublin to the earl of Pembroke, 289.

Louis, king of France, his anſwer to Henry's embaſſador, as reported by William of Newbury, 284. a reaſon aſſigned for its ſuppoſed contents, 285. he reproaches Henry, with frequent breaches of faith, *ibid.* is warned by a pretended viſion to repair to Becket's tomb, 347, 348.

Luſignan, Geoffry de, a miſtake concerning him, by the writer of Saladin's life, 370.

M.

Mac Culinan Cormac, king of Munſter, and biſhop of Caſhell, is ſlain in battle, 263, his will, 269, 270.

Mac Murogh Dermod, king of Leinſter, it appears doubtful whether an act of cruelty, attributed to him in the text, was committed by him or his father, 357, 358.

Magnus, king of Norway, his inſolent meſſage to Murogh O Bryan, 266.

Malachy, archbiſhop of Armagh, an account of miracles pretended to have been wrought by him, 267,

Margaret, Henry the young king's queen, ſuppoſed to have been confined in the Tower of London, 288. 268.

Monteſquieu, notions of his, concerning the fire ordeal, and trials by combat, cenſured, 289—291.

Morville, Hugh de, one of Becket's murderers, proofs of his being alive until the beginning of the reign of king John, 282—284.

N.

Natural hiſtory, ſome account of the moſt remarkable phænomena in it, from the death of Edward the Confeſſor to that of Henry the IId, 18—27.

Nicholas, cardinal of Arragon, his audacious forgery of an oath pretended by him, to have been taken by Henry and his ſon the young king, 282.

Northampton, ſtatutes enacted at Clarendon, confirmed in a parliament held there, 321—324.

O.

O Conor Charles, Iriſh annals tranſlated by him, and ſent to the Author of this work, account of them, 272, 273.

O Meey, is ſuppoſed to have been inſtigated to the murder of Hugh de Lacy by the Iriſh clergy, 357.

O Ruark, improperly ſtiled king of Meath, by the Engliſh hiſtorians, 274.

P.

Parliament Iriſh, a remarkable declarative ſtatute, paſſed by it in queen Elizabeth's time, 268, 269.

Pembroke, Strongbow earl of, Stanihurſt's account of his putting his ſon to death rejected, 268, 269.

Peter of Blois, his letter, no proof of Henry's dependence on the ſee of Rome, 285, 286.

Petrariæ, engines uſed in ſieges, reſembling the catapultæ of the ancients, 365. accounts of their prodigious force, 365.

Pictures, one made by the Chriſtians repreſenting Chriſt ſcourging by an Arab, 363, 364. — another painted by the order of Conrade of Montferrat, in which a Mahometan horſeman is drawn, with the feet of his horſe trampling and ſtaling on the holy ſepulchre, 364.

Port, Adam de, is fined and pardoned, 439.

Prendergaſt, Maurice de, his noble behaviour and gratitude to Donald, chieftain of Oſſory, 276—278.

Public fame, how far it was a legal foundation for a criminal proſecution, 292.

R.

Records, relating to itinerant juſtices, taken from Madox's Hiſtory of the Exchequer, 314—321. to the family of Gerald Mac Gillemory in Birmingham Tower, Dublin, 337. 339.

Regan Maurice, interpreter to Dermod, king of Leinſter, reaſons for not believing him to have been the author of the hiſtorical poem, and for rejecting the matter it contains, in moſt particulars, 270—272.

Richard, king of England, revives the practice of tournaments in his kingdom,

dom, 347. inſtances of his extraordinary proweſs, 361. the opinion conceived of him by the Arabian writer of Saladin's life, 361, 362.

S.

Saladin, his humanity and liberality, 363.
St. Petroc, his body ſtolen by a monk, and carried into Bretagne, 369, 370.
Scotland, freeholders fewer in that kingdom, in proportion to the number of people, than in England, and why, 288.

T.

Tripoly, Raymond earl of, is exculpated of the charges brought againſt him by his enemies, 362, 363, 365.
Tyrone, Con. O Neal earl of, curſes his poſterity, if they ſhould ever erect edifices of ſtone or brick, 342.

W.

Welſh, a land ſouth weſt of Ireland, ſuppoſed to have been part of the continent of America, ſaid to have been diſcovered by Madoc, one of their princes, in the reign of Henry II, grounds of that opinion examined, 371—373.
William the Conqueror, laws of his, 324, 325. 328.—335.
William, king of Sicily, his bequeſts to Henry, 367, 368.

FINIS.

There being in the laſt Edition in Quarto of the former parts of this Hiſtory a number of falſe prints, I ſhall here mark them out, with the proper corrections.

VOL. I.

Page.	Line.	
10.	2.	inſtead of *agreeable* read *agreeably*.
19.	5.	inſtead of *they* read *he*.
103.	21.	inſtead of *had granted* read *had formerly granted*.
104.	8.	inſtead of *could ever obtain* read *can ever obtain*.
233.	7.	from the bottom, inſtead of *William Ipres* read *William* of *Ipres*.
243.		at the end of l. 12. part of a paragraph is left out, and makes the whole nonſenſe. It ought to run thus, *to reconcile the inclinations of the people to that change which his ſword had effected; but in thoſe parts of the country which had eſpouſed his ſiſter's cauſe,*
247.	2.	inſtead of *adjoining* read *joining*.
262.	17.	inſtead of *gained the port* read *gained the Norman port*.
268.	5.	from the bottom, inſtead of *the feet of horſe* read *the feet of his horſe*.
361.	9.	inſtead of *dangerous* read *generous*.
376.	6, 7.	from the bottom, inſtead of *ſhe was of ſpirit* read *ſhe was of a ſpirit*.
431.	12.	inſtead of *ſeemed* read *ſeeming*.

NOTES, at the end of VOL. I.

Page.	Line.	
442.	15.	inſtead of *perfectionis* read *profectionis*.
	17.	inſtead of *filium* read *filiam*.
	1.	from the bottom, leave out *any* before *one*.
444.	9.	inſtead of *adjuravi* read *adjuvari*.
	17.	inſtead of *juravet* read *juvaret*.
454.	2.	from the bottom, inſtead of *toe* read *the*.
462.	11.	from the bottom, inſtead of *canon* read *canons*.
463.	*ult.*	leave out *the court of*.
468.	*ult.*	inſtead of *calls* read *cites*.
473.	2.	from the bottom, inſtead of *did perſonally* read *did not perſonally*.
476.	14.	inſtead of *condidit* read *contendit*.
480.	2.	inſtead of *to* read *into*.
485.	13.	inſtead of *Hac* read *Has*.
487.	12.	from the bottom, inſtead of *magno valdè* read *valdè magno*.
497.	18.	from the bottom, inſtead of *homages* read *homage*.
499.	15.	inſtead of *be a miſery* read *be miſery*.
502.	16.	from the bottom, before *any time* infert *at*.
504.	3.	from the bottom, inſtead of *but differently aſſeſſed* read *but had been differently aſſeſſed*.

APPENDIX, VOL. I.

Page.	Line.	
526.	11.	instead of *his* read *hiis*.
526.	5.	from the bottom, instead of *biberas* read *liberas*.
527.	7.	from the end of the charter, instead of *Reges* read *Regis*.
530.	9.	instead of *masters* read *master's*.
536.	6.	instead of *regnum* read *regum*.

Errors in the References.

Page 3 of the History, near the bottom, leave out V. Malmsb. de Gest. Reg. Ang. l. ii. f. 46. sect. 50.

107. Margin, near the bottom, insert Orderic. Vital. p. 814, 815.

False Stops in the First Volume, which hurt the Sense.

Page.	Line.	
117.	8.	from the bottom, put the *comma* after *but* instead of before it.
230.	11.	after *they had* a *comma* is wanting.
453.	9.	from the bottom, after *action* a *comma* is wanting.
478.	5.	after *volens* put a *comma*.
	7.	after *consideratione* put a *comma*.
	9.	from the bottom, after *coepiscopis* leave out the *comma*, and put one after *suis*.
480.	1.	from the bottom, after *witch* a *comma* is wanting.
481.	13.	from the bottom, after *prince* a *comma* is wanting.
507.	8.	from the bottom, after *that* a *comma* is wanting.
508.	8.	after *Stephen* a *comma* is wanting.
524.	9.	from the bottom, after *suas* a *comma* is wanting.
532.	8.	from the bottom, after *Edwardi* a *comma* is wanting.

Some of these false prints are also in the First Edition; but I likewise find in some places inaccuracies of my own, which had escaped my attention when I gave the former parts of this work to the Publick, and which, upon a revisal, I now desire to correct by the following alterations.

Page.	Line.	
36.	11.	instead of *being* read *having been*.
103.	9.	from the bottom leave out *several*.
116.	2.	from the bottom, after *delivered* leave out *up*.
118.	3.	leave out *at home*.
123.	9.	after *and* insert *took her again to*.
184.	16.	leave out *the subsistence of*.
263.	18, 19.	instead of *the earl of Anjou* read *Geoffry*.
	23.	leave out *natural*.

Page.	Line.	
267.	11.	from the bottom, instead of *prince* read *commander*.
273.	18.	leave out *absolutely*.
276.	3, 4.	from the bottom, instead of *and confidently supposing that it could not be passed* read *and supposing that the stream could not be passed*,
	13, 14.	from the bottom, after *waters* leave out *so as to be thought inaccessible*.
277.	3.	leave out *that there had been*.
	11.	from the bottom, instead of *shut up all access from the country* read *stopped all access to it from the neighbouring country*.
294.	5.	from the bottom, instead of *the earl* read *he*.
295.	11.	instead of *he* read *Zenghi*.
370.	12.	leave out *she could*.
	11.	from the bottom, instead of *to the duties of the high rank he was born to* read *to all the regal duties*.
373.	16.	from the bottom, instead of *he* read *that minister*.
424.	9.	instead of *which made our King James the First say, not unwittily, that he was a sore saint for Scotland*; read *which made King James the First of Scotland say, not unwittily, that he was a sore saint for the crown*.
467.	7.	instead of *his* read *Robert's*.
481.	10.	after *gentlemen* leave out *with him*.
490.	7.	from the bottom, after *eight* leave out *a clock*.
499.	3.	from the bottom, instead of *that he who was* read *that a prince*.
509.	3, 4.	from the bottom, instead of *till the best part of them were* read *till the greater part of them had been*.
534.	5, 11.	from the bottom, instead of *statute* read *charter*; and in the last line, instead of *I shall say more of it in my third volume*, read *Of these jurisdictions I shall say more in my third volume*.

False Prints in the Second Volume of the last Edition in Quarto.

Page.	Line.	
30.	20.	instead of *it would by his* read *it would have been so by his*.
34.	6.	from the bottom, instead of *kingland* read *kingdom*.
46.	10.	from the bottom, after *homage* put a full stop; and mark the beginning of the next paragraph by a great *H* in *he*.
47.	14.	instead of *had served* read *had formerly served*.
	3.	from the bottom, instead of *his negociation* read *the negociation*.
51.	10.	from the bottom, instead of *provinces* read *princes*.
62.	4.	instead of *sometime* read *some time*.
63.	3.	instead of *this reign* read *his reign*.
141.	11.	from the bottom, instead of *grant* read *inheritance*.
149.	2.	from the bottom, instead of *that were taken* read *they were taking*.
156.	4.	from the bottom, for *of Henry* read *King Henry*.
194.	4.	from the bottom, instead of *the demands of the barons made to King John* read *the demands which the barons made to King John*.
198.	8.	instead of *succeeded* read *succeeding*.

ERRATA IN VOL. II.

Page.	Line.	
203.	2.	from the bottom, instead of *it is escheated* read *it escheated.*
210.	*ult.*	instead of *opinion of the sovereign* read *opinion in the sovereign.*
221.	2.	from the bottom, after *held* insert *them.*
241.	7.	instead of *body* read *bodies.*
243.	17.	instead of *law was* read *was law.*
252.	12.	instead of *well as these* read *well as of these.*
	7.	from the bottom, instead of *law* read *laws.*
264.	8.	instead of *at* read *en*; and leave out the *comma* after *Emperor.*
265.	12.	instead of *yet* read *but.*
	9.	from the bottom, instead of *twenty-two* read *twenty-eight.*
287.	3.	after *assent*, these words are omitted by the printer, *To him belonged the right of assembling and dissolving the parliament or great council.*
295.	1.	instead of *were* read *was.*
301.	9.	instead of *were* read *was.*
317.	5.	from the bottom, instead of *in* read *into.*
319.	11.	instead of *grantees* read *grantee.*
373.	2.	instead of *extraordinary manner* read *extraordinary a manner.*
	18.	instead of *before informed* read *being informed.*
410.	9.	instead of *this treason* read *his treason.*
418.	12.	instead of *was* read *is.*
	20.	instead of *to* read *into.*
424.	3.	instead of *derived from them by the Britons* read *derived to them from the Cornish Britons.*
428.	13.	from the bottom, instead of *these* read *those.*
430.	5.	from the bottom, instead of *cases* read *causes.*
437.	7.	after *peace*, the following words are left out, *required that those customs and dignities of the realm,*
	11.	instead of *abjured* read *adjured.*
	19.	instead of *his intentions* read *the intentions.*
440.	17.	after *he* insert *had.*
444.	9.	from the bottom, instead of *shall be* read *will be.*
447.	14.	leave out the second *to.*
449.	4.	instead of *disguised* read *disgusted.*
452.	*ult.*	leave out *the* before *misrepresentations.*
62.	12.	from the bottom, instead of *at that season* read *in that season.*
	7.	from the bottom, after *that* insert *had.*
	2.	from the bottom, instead of *Campania* read *Campagna.*
466.	11.	leave out the second *had.*
	9.	from the bottom, instead of *letter* read *letters.*
468.	12.	instead of *the justices due* read *and the justice due.*
	17.	instead of *judgements* read *judgement.*
472.	8.	instead of *than* read *then.*
496.	11.	instead of *it* read *this.*
501.	2.	from the bottom, instead of *to do so* read *so to do.*
516.	10.	instead of *this* read *his.*
579.	14.	instead of *admotion* read *admonition*; and instead of *made to the king* read *delivered to the king.*
592.	2.	instead of *commission* read *permission.*

False

ERRATA IN VOL. II.

False Stops in the Second Volume, which hurt the Sense.

Page.	Line.	
46.	10.	from the bottom, after *homage* put a *full stop*, and mark the beginning of the next period by a *great H*, in *he*.
157.	15.	after *ſtrength* leave out the *comma*.
172.	3.	from the bottom, put a *comma* after *thirteen*; and in the laſt line leave out the *comma* after *that*.
240.	6.	after *old* a *comma* is wanting.
242.	14.	after *times* a *comma* is wanting.
253.	18.	after *kingdom* a *comma* is wanting.
260.	3.	inſtead of the *comma* put a *ſemicolon*; and l. 4, inſtead of the *ſemicolon* put a *comma*.
273.	9.	from the bottom, inſtead of the *ſemicolon* put a *comma*.
286.		in the laſt line, leave out the *comma* after *Ariſtocracy*.
333.	17.	inſtead of the *colon* put a *comma*.
341.	2.	leave out the *comma* after *God*.
	6.	inſert one after *clergy*.
409.	12.	put a *comma* after *ſoldiers*, and leave out that after *being*.
	3.	from the bottom, put a *comma* after *terror*.
435.	4.	after *grace* inſert a *comma*.
440.	6.	after *letter* inſert a *comma*.
461.	6.	from the bottom, leave out the *comma* after *could*.
519.	16.	inſtead of the *ſemicolon* put a *comma*.
578.	13.	from the bottom, after *where* put a *comma*.

Corrections by the Author in the Second Volume.

Page.	Line.	
23.	3.	from the bottom, inſtead of *would have been ſingly ſufficient* read *would alone be ſufficient*.
40.	1.	inſtead of *ſeveral* read *reſpective*.
104.	5.	from the bottom leave out *was* and *for*.
145.	6.	from the bottom, after *promotion* leave out *to the ſee of St. David's*.
156.	14.	from the bottom, for *baliſtæ* read *catapultæ*.
168.	1, 2.	inſtead of *there was paid* read *the Engliſh paid*.
196.	13.	inſtead of *the delivering of ourſelves from ſo heavy a yoke, and the recovering of that independance* read *the delivering us from ſo heavy a yoke, and recovering that independance*.
221.	2, 3.	inſtead of *were honoured with that title* read *had the title of barons*.
319.		from line 15 to line 10 from the bottom, inſtead of *yet, that all have been brought into a more perfect and a more regular ſtate of freedom, by the re-aſſerting of ancient rights, impaired by ill practiſes, or by the application of feudal notions to the courſe of law in this kingdom, beyond what was authoriſed by the conſent of the nation in parliament, cannot, I think, be denied*; read *yet, that all have been brought into a more perfect and regular ſtate of freedom, by the re-aſſerting of ancient rights, which the application of feudal notions to the courſe of law in this kingdom, or ill practiſes, had impaired, cannot, I think, be denied*.

ERRATA IN VOL. II. AND III.

Page.	Line.	
347.	7.	instead of *under homage to the crown, alledging*, &c. end the period at *crown*, and begin a new one with *He alledged.*
353.	12.	instead of *put him in mind of* read *urge to him.*
354.	1.	instead of *him* read *Becket.*
366.	5.	from the bottom, instead of *one who was acquainted with all the secrets of his foreign affairs* read *one acquainted with the secrets of his foreign affairs.*
373.	9.	from the bottom, instead of *made to him was* read *returned was.*
411.	6.	from the bottom, instead of *from the apprehensions of a disputed succession in his kingdom* read *from apprehensions of a disputable succession to his kingdom.*
	2.	from the bottom, instead of *relates to him* read *tells the archbishop.*
412.	4.	instead of *he* read *John.*
418.	11.	from the bottom leave out *very.*
420.	6.	before *observes* leave out *well.*
423.	11.	after *subsistence* leave out *for his forces.*
440.	17.	after *cordial* leave out *support and.*
	12.	from the bottom, after *therefore* leave out *the Jesuit who was.*
454.	10.	from the bottom, instead of *his disapprobation of them* read *his disapprobation of the several causes of them.*
483.	17.	from the bottom, leave out the first *that.*
	11.	from the bottom, instead of *that prelate* read *the primate.*
497.	14.	from the bottom, instead of *not fail of having* read *not fail to have.*
511.	3.	instead of *Johanna* read *Jane.*
548.	4.	from the bottom, after *Becket* insert *or of his correspondents.*
565.	1, 2, 3.	instead of *would thus despoil his mother, the church of Canterbury, without cognizance of the cause, of her ancient right*, read *would thus, without cognizance of the cause, despoil his mother, the church of Canterbury, of her ancient right.*
591.	17.	from the bottom, instead of *to have spoken* read *had spoken.*

False Prints in the Notes on the Second and Third Books, Second Edition, in Quarto, and in the Appendixes to both.

In the running-title, instead of *To* read *On.*

Page.	Line.	
41.	15.	instead of *offensum* read *offensam.*
46.	15, 16.	from the bottom, instead of *honor of Skipton in Craven* read *honours of Skipton and Craven.*
54.	16.	after *excelled* insert *that gentleman.*
109.	6.	instead of *et justæ* read *ut justæ.*
115.	1, 2.	before *says* insert *and.*
133.	9.	instead of *de Breton* read *le Breton.*
135.	9.	instead of *then* read *thence.*
173.	17.	instead of *artificii* read *artifici.*

Line.	Page.	
174.	21.	instead of *trewis* read *treguis*.
180.		N° X. refers to p. 321. Vol. II. See also, p. 499. Vol. I.
182.		in the reference, N° II. after 344. insert 353, 359.
185.		in the reference, N° III. after *page* insert 427.
189.	8.	from the bottom, instead of *declinatis* read *declinetis*.
191.	8.	instead of *quam* read *quâ*.
199.		N° III. of the Appendix, the mark of the ablative case is sometimes left out, where, in order to made the sense more clear, it should have been put.
220.		N° VII. first line, instead of *quam* read *quâ*.

Corrections by the Author.

Page.	Line.	
48.	8.	from the bottom, instead of *were honored with that title* read *had the title of barons*.
75.	16.	from the bottom, instead of *There can be nothing more different than the preservation of liberties and franchises used through the realm in elections, from the communicating of a liberty and franchise to persons not entitled to it before*, read *There can be nothing more different from the communicating of a liberty and franchise to persons not entitled to it before, than the preservation of liberties and franchises used through the realm in elections*.
148.	3.	instead of *your Sublimity* read *your Highness*.
152.	6.	instead of *he* read *Becket*.

False Stops, which hurt the Sense.

Page.	Line.	
21.	11.	from the bottom, put a *comma* after *prince*, instead of the *semicolon*.
45.	3.	from the bottom, leave out the *comma* after *was*.
49.	3.	after *majorem* put a *semicolon* instead of the *period*, and write the following *and* with a *little a*.
80.	14.	after *vestri* put a *semicolon* instead of the *period*, and write the following *ita* with a *little i*.
127.	5.	after *but* insert a *comma*.
129.	2.	there ought to be no *break* after *king*.
131.	18.	leave out the *comma* after *youth*.
132.	7.	after *verses* insert a *comma*.
219.	9.	after *ordinavit* instead of the *colon* put a *comma*.

THERE are ſeveral *falſe ſpellings* in the different parts of this edition, which the reader himſelf will eaſily correct. But, with regard to the ancient and modern orthography, I would here obſerve, that the former ſeems to me much better than the latter in many particulars. For inſtance, I think that in many of our words derived from the Latin, ſuch as *candour*, *favour*, *honour*, the *u* was inſerted, and ought to be continued, to mark the true pronunciation, which has more of the *u* than of the *o*; and likewiſe to diſtinguiſh the Engliſh from the Latin, by a different termination. The French, for the ſame reaſons, write *candeur*, *faveur*, *honeur*, inſtead of *candor*, *favor*, *honor*. I alſo think, that in the words which our language has derived immediately from the French, though remotely from the Latin, the French ſpelling ſhould be followed, except with regard to the termination of them; as, for example, *entire*, which comes from the French *entier*, ſhould not be written (as it is by ſome modern authors) *intire*, after the Latin word *integer*, but with an *e* at the beginning of it; and yet with a different termination, to vary it from the French, as well as from the Latin, and ſo make it our own. It, moreover, ſeems to me, that the perfect tenſe and the participle paſſive of words which end in *eſs*, *aſs*, or *iſs*, ſuch as *poſſeſs*, *expreſs*, *paſs*, *diſmiſs*, ought to be diſtinguiſhed from the imperfect tenſe of thoſe verbs, by writing *poſſeſt*, *expreſt*, *paſt*, *diſmiſt*, inſtead of *poſſeſſed*, *expreſſed*, *paſſed*, *diſmiſſed*: for whatever makes the ſenſe more diſtinct and perſpicuous is uſeful in a language. At preſent our ſpelling, from the changes introduced within theſe laſt thirty years, is under no ſettled rule.—In ſome of the paragraphs or ſentences printed in Italick characters, ſome words are left in Roman letters, which ſhould have been in Italick, as the ſenſe will ſhew to the reader.

On reviſing and conſidering a paſſage cited by me, in p. 515 of the ſecond volume of this Hiſtory, from a letter of Peter of Blois, concerning the ſtate of London in his time, I ſuſpect there is an error of the preſs or the manuſcripts, in all the copies I have ſeen; and that inſtead of *quadraginta millia* we ſhould read *quadringenta*; the former number of inhabitants being not in proportion to the bigneſs of the city, as deſcribed by the ſame writer, nor to what we know, from the teſtimonies of many others in that age, of its importance, dignity, and power in the kingdom. If any authority for this correction of the text can be found in the manuſcripts, I ſhould make no doubt of preferring it to the reading I have followed, and putting *four hundred thouſand* inſtead of *forty thouſand*.

N. B. The laſt Edition, in *Octavo*, of the former parts of this work, having been printed from this, has all the ſame faults, and many more; which will, in the ſame manner, be taken notice of, and corrected, when the laſt two Books ſhall be publiſhed in that ſize. They will ſpeedily be put into the preſs.